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Superfund Technical Assistance Grants Program Regional Guidance Manual

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Abstract: Section 117(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, states that technical assistance grants can be made to 'any group of individuals which may be affected by a release or threatened release at any facility which is listed on the National Priorities List (NPL)' Affected groups eligible for technical assistance grants are those that can demonstrate, among other things, that their members face actual or potential health, economic, or environmental threats arising from a release or threatened release at a facility listed on the NPL or proposed for listing where a response action is underway. CERCLA, as amended, authorizes a maximum technical assistance grant of up to $50,000 per site for the duration of site response activities. Citizens' groups are required to provide matching funds. Only one grant may be awarded for any eligible NPL site. If more than one group intends to apply for the available grant at a site, the groups should be encouraged to consolidate and submit one application. Grants will be used for the purpose of obtaining technical assistance to interpret information related to Superfund response activities at a site.

United States
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Office of Emergency and
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EPA

Superfund Technical Assistance Grants Program

Regional Guidance Manual

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EPA REGIONAL GUIDANCE MANUAL FOR THE TECHNICAL ASSISTANCE GRANT PROGRAM

OSWER Directive 9230.1-04

July 1988

U.S. Environmental Protection Agency
Office of Emergency and Remedial Response
Washington, D.C. 20460

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PREFACE

Section 117(e) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (CERCLA), as amended, authorizes the President to make grants of up to $50,000 available to groups of individuals for the purpose of obtaining technical assistance to interpret information related to Superfund cleanups at sites listed on the National Priorities List (NPL) or proposed for listing where a response action is underway. The authority to implement Section 117(e) in consultation with the Attorney General was delegated to the U.S. Environmental Protection Agency (EPA) by Executive Order No. 12580. Thus, EPA issued on March 24, 1988 an Interim Final Rule (IFR) establishing initial policies and procedures for this program. Grants may be awarded during the period of time between the issuance of the IFR and the Final Rule. A Final Rule is expected to be issued in approximately one year, on or about March 24, 1989.

The purpose of this EPA Regional Guidance Manual for the Technical Assistance Grant Program (Regional Guidance Manual) is to provide guidance to EPA Regional Offices for the administration and implementation of the technical assistance grant program during the period of time between issuance of the IFR and the Final Rule. This guidance manual:

- outlines the various responsibilities of key EPA staff in implementing this program;
- outlines the role of States in administering this program;
- provides an overview of the application solicitation and receipt processes;
- provides checklists for reviewing and evaluating applications, and awarding grants;
- outlines the responsibilities and requirements of technical assistance grant recipients;
- provides guidance for technical assistance grant project administration and oversight;
- addresses some of the special circumstances involved with the Technical Assistance Grant Program;
- describes alternative administrative and programmatic approaches; and
- includes samples of public notification letters required in the administration process.

Together with this guidance manual, Agency personnel responsible for administering the Technical Assistance Grant Program should follow the procedures outlined in the EPA Assistance Administration Manual (1984 Edition, EPA Grants Administration Division, Office of Administration) for implementing the EPA grant and procurement regulations in Volume 40 of the Code of Federal Regulations (CFR) Parts 30 and 33, respectively. The Assistance Administration Manual provides policies and procedures for managing administrative aspects of all EPA financial assistance programs. The technical assistance grant program, however, is unique in many aspects. As a result, procedures specific to this program have been developed and are outlined in this guidance manual with references to the appropriate chapters in the Assistance Administration Manual.

Agency personnel also should be familiar with the Citizens' Guidance Manual for the Technical Assistance Grant Program. The citizens' guidance manual provides citizens with detailed instructions on how to obtain a grant, hire a technical advisor, and manage a technical assistance grant project. The citizens' guidance manual and the grant application package are available, upon request, from EPA Regional staff. Consequently, EPA staff will need to familiarize themselves with the information and directions being provided to citizens to ensure that Regional implementation of the program is consistent with the instructions, information, and guidance provided to the general public.

In addition, EPA personnel should be familiar with the document, Community Relations in Superfund: A Handbook. The handbook provides requirements, guidance, and suggestions for conducting community relations activities during the planning and implementation stages of remedial response actions. The Technical Assistance Grant Program is a major public involvement effort that complements community relations activities currently being conducted by EPA as part of the Superfund program. While Regional staff may conduct community relations activities for a site-specific technical assistance grant, these activities do not and cannot substitute for other activities scheduled as part of a site's normal community relations effort. EPA has an obligation to involve the community as a whole -- rather than just a single grant recipient -- in the Superfund cleanup process.

This guidance manual has been designed specifically for use by EPA Regional staff. While State personnel may find it helpful, individual States probably will need to develop a State-specific manual. States that choose to administer the Technical Assistance Grant Program must inform the appropriate EPA Regional Administrator and enter into a cooperative agreement or other written agreement with EPA. The role of States in the Technical Assistance Grant Program is discussed in Chapter 3 of this Regional Guidance Manual.

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1. THE SUPERFUND TECHNICAL ASSISTANCE GRANT PROGRAM

1.1 Purpose and Objectives

Section 117(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, states that technical assistance grants can be made to "... any group of individuals which may be affected by a release or threatened release at any facility which is listed on the National Priorities List (NPL)...." Affected groups eligible for technical assistance grants are those that can demonstrate, among other things, that their members face actual or potential health, economic, or environmental threats arising from a release or threatened release at a facility listed on the NPL or proposed for listing where a response action is underway.

CERCLA, as amended, authorizes a maximum technical assistance grant of up to $50,000 per site for the duration of site response activities. Citizens' groups are required to provide matching funds. Only one grant may be awarded for any eligible NPL site. If more than one group intends to apply for the available grant at a site, the groups should be encouraged to consolidate and submit one application, however, they may elect to submit competing applications. In the event that competing applications are submitted at a site, EPA may select only one grant recipient from among the competing applications.

Grants will be used for the purpose of obtaining technical assistance to interpret information related to Superfund response activities at a site. Grants may be used to fund activities such as the review of documents, site visits by the technical advisor, dissemination of information, and public information meetings. The technical advisor will serve essentially as:

1) an interpreter of site-related technical documents;

2) an advisor in the development of citizens' comments on documents such as the draft feasibility study (FS); and

3) a communicator to the larger community through information meetings with citizens and the publication of documents interpreting technical material.

The Technical Assistance Grant Program adds a major new component to EPA's Superfund community relations program. By providing grants to citizens' groups to hire technical advisors, the effectiveness of the EPA community relations effort will be enhanced by promoting greater understanding of the Superfund cleanup process and allowing for a more informed discussion of site activities by citizens who are affected by the site.

1.2 Making Grants Available

Groups may apply for a technical assistance grant at any time after a site is listed on the NPL or proposed for listing where a response action has begun. The earliest that grant monies will be available for these sites, however, is the start of the response action.*

This approach should ensure that sufficient time is available for interested groups to consolidate and apply formally for a grant. This schedule also should give EPA an opportunity to process the grant application carefully and provide the grant recipient time to obtain the services of a technical advisor before work at the site actually begins. If possible, EPA or the State should allow time for informing the public of the availability of technical assistance grants well in advance of a response action. This can be accomplished in several ways. First, to ensure that all eligible groups in a community have an equal opportunity to apply for a technical assistance grant, community relations activities such as mailings, meetings, and/or public notices must be undertaken to notify the public about the availability of grants. Formal notification requirements are discussed in Chapter 4 of this manual under "Application Solicitation and Receipt."

Second, the initiation of community interviews well in advance of the start of site response action will enable EPA personnel to identify:

- o individuals and groups in a community that desire and need technical assistance;
- o individuals and groups to add to EPA's mailing list for mailings and meetings; and
- o communities that are likely to submit consolidated applications and those that are likely to submit competing applications.

In cases where there are competing groups for the single available grant, EPA staff should strongly encourage groups to consolidate and submit only one application. Consolidation, however, is not required.

Third, development of a community relations plan by EPA early in the technical assistance grant process that details projected site activities may help speed up the application and review process. The community relations plan will help citizens' groups in the development of their grant applications -- particularly Part IV of the application, where a group must explain their plan for using a

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* The phrase "start of response action" is defined in the Interim Final Rule (IFR) as "the point in time when there is a guarantee or set-aside of funding either by EPA, other Federal agencies, States, or PRPs in order to begin response activities at a site. The document which reflects the set-aside of, or formally guarantees, funding during the coming fiscal year, is EPA's annual Superfund Comprehensive Accomplishments Plan (SCAP)."

technical advisor. If there is no established community relations plan to refer to, applicant groups will have to determine a reasonable schedule for site activities either on their own or from discussions with the EPA Remedial Project Manager (RPM).

Every effort should be made to inform site communities of the availability of technical assistance grants as early as practical. Careful community relations planning will allow the technical assistance grant program to be implemented effectively and integrated smoothly into the overall Superfund remedial effort.

2. RESPONSIBILITIES OF KEY STAFF

Successful implementation of the Technical Assistance Grant Program will require close coordination among Superfund site personnel, such as the Remedial Project Managers (RPMs) and the Community Relations Coordinators (CRCs), and EPA staff responsible for administering and overseeing the grants process (i.e., contracts specialists and Financial Management Office (FMO), and Assistance Administration Unit (AAU) personnel).* The organizational units responsible for implementing the Technical Assistance Grant Program may vary depending on Regional staffing levels, needs, and priorities. Regions should adopt specific procedures which best suit their situation. Section 2.4 is reserved for each Region to include its Regional procedures for implementing this program.

The following sections discuss:

- o suggested role for the Technical Assistance Grant (TAG) Project Officer throughout the grant review, award, and oversight process;
- o suggested roles for other EPA staff who are likely to be involved in the administration and management of the Technical Assistance Grant Program;
- o two alternative staffing approaches for implementing the Technical Assistance Grant Program; and
- o Regional procedures.

2.1 Suggested Role of the TAG Project Officer

The TAG Project Officer will serve as the team leader throughout the grant process and as the applicant's main point of contact with EPA. Therefore, it is important to designate staff for this position as soon as practical. Regions may wish to assign a TAG Project Officer no later than after receipt of the first letter of intent advising the Agency that a citizens' group intends to file an application for a technical assistance grant at a site.

The TAG Project Officer has the basic responsibility for managing and monitoring all work performed under the terms of the EPA grant agreement. **The TAG Project Officer does not need to be an expert on all aspects of the administrative, procurement, and financial requirements of the grant process but must be able to identify situations requiring coordination with other Agency staff such as the AAU, FMO, and other support units of the Agency which perform the**

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*AAU is the generic term for grant specialists in EPA Regional Offices and is used throughout the EPA Assistance Administration Manual (1984 edition, EPA Grants Administration Division, Office of Administration).

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administrative tasks required for evaluating applications, awarding grants, and monitoring financial and progress reports.

The duties of the TAG Project Officer will vary during the grant application, review, and oversight process. During the period of the grant application review, the TAG Project Officer's responsibilities usually will include:

- o serving as the grant applicant's primary EPA contact during the application review and approval process;
- o coordinating the administrative, programmatic, and legal review of the application with the various members of the review team, which may include the AAU, Office of Regional Counsel (ORC), and Superfund remedial and community relations staff, as well as staff from a State Superfund office;
- o participating in the review of the grant application and the award of the grant; and
- o coordinating with the Agency spokesperson during the announcement of a grant award which involves issuing a press release to local newspapers.

After a grant award has been made, the TAG Project Officer is the EPA official directly responsible for the oversight of the technical assistance grant project. During this stage, the TAG Project Officer's duties may include:

- o establishing and maintaining the official technical record of activities for the technical assistance grant;
- o reviewing, when appropriate, subagreements under the award before the recipient awards them to a technical advisor;
- o approving minor modifications to the Work Plan and/or the budget;
- o reviewing technical financial reports, progress reports, and other correspondence that have a significant bearing on the performance of the grant recipient or the technical advisor;
- o working with the FMO and the grant recipient if there are any problems regarding reimbursement payments; and
- o recommending administrative action if the recipient fails to comply with EPA grant and procurement regulations and any special conditions of the grant award.

After the technical assistance grant project has been completed, the TAG Project Officer is responsible for approving or disapproving a group's request to destroy its records of the technical assistance grant project. No such request can be approved until at least three years after close-out of the project. The TAG Project Officer must obtain the consent of the ORC prior to approving this request. Recipients must obtain EPA's prior written approval before destroying any of their records after the record retention period and before approving destruction of contractor records, in accordance with the IFR Section 35.4100.

2.2 Suggested Roles of Other Staff

In addition to the TAG Project Officer, a variety of other staff will collaborate in the administration and oversight of a technical assistance grant. The possible roles of various staff are outlined below.

Assistance Administration Unit (AAU): In cooperation with the TAG Project Officer, the AAU for a Region is likely to be responsible for tracking the application through the review, selection, and award process. In addition, the AAU, may provide subsequent administrative and financial oversight of the technical assistance grant after an award is made.

The AAU performs the initial administrative review of an application and forwards the application to the grant review team for programmatic review. It is advisable, however, that a grants specialist be included as a member of the programmatic review team because of their knowledge of EPA's grants process.

Regional Superfund Office: Superfund staff should play an active role in the Technical Assistance Grant Program. Effective programmatic review of a grant application will require knowledge of the site, the site community, and the schedule for remedial work. The RPM and CRC are likely to be the staff best able to determine if a particular group is representative of a community and whether a group's proposal presents a feasible plan for using the services of a technical advisor at that particular site throughout the Superfund cleanup process.

Once the grant award has been made, the CRC and the RPM will interact directly with citizens' groups and the technical advisors, as appropriate. Both the RPM and the CRC should assume responsibility for coordinating with all site technical and legal staff to provide information to the public on the technical aspects of the site cleanup process. They also will need to be available to answer both the technical advisor's and citizens' group's questions regarding site-related activities and documents. In addition, Superfund staff should ensure that the TAG Project Officer, citizens' groups, and their technical advisors are kept apprised of any schedule changes in site work, and that recipients and their advisors have access to all publicly available documents related to the site.

Regional Financial Management Office (FMO): The FMO is comprised of financial management specialists in each Region who establish and maintain the official financial records related to grant agreements (e.g., the Financial Management File). The FMO usually is responsible for processing financial transactions related to a grant award including the obligation and disbursement of

funds to grant recipients. The FMO also is responsible for recovering any funds owed to the government after close-out or termination of a technical assistance grant project.

Regional Administrator's Office : The Regional Administrator, or his/her designee, reviews the grant review team's recommendations for waivers of the 35 percent matching share of the $50,000 ceiling for multi-site awards and makes the final decision for all waivers granted.

Office of Regional Counsel (ORC): The ORC performs the legal review of each grant application, as needed. In addition, the ORC provides advice, as needed, on legal matters such as termination for cause, suspension, and debarment actions. There also may be litigation or other enforcement actions ongoing at a site. Whenever enforcement activities are anticipated or ongoing, ORC and the enforcement program staff must be consulted.

Headquarters Grants Information and Analysis Branch (GIAB): The GIAB of the Grants Administration Division is responsible for notifying the Headquarters Office of Congressional Liaison of all grant awards prior to the Region notifying the recipient (see Chapter 5 for details on this process).

Headquarters Office of External Affairs (OEA), Office of Congressional Liaison (OCL): OEA's Office of Congressional Liaison is responsible for notifying the appropriate Congressional delegation -- prior to recipient notification -- of each grant award at sites within the relevant district. OCL receives award notifications from GIAB and delivers them to the appropriate Congressional delegation. This notification process serves only an informational function and does not require any response from the Congressional delegation or OCL. Therefore OCL notification should not delay the award process.

Office of Inspector General (OIG): OIG is responsible, among other things, for any necessary audits related to grant agreements.

Office of Emergency and Remedial Response (OERR): OERR's role is to resolve policy issues, review waiver requests to the $50,000 grant limit, develop support materials from fact sheets to manuals, and troubleshoot problems if and when they arise.

2.3 Alternative Staffing Approaches

Two Regions have suggested alternative staffing approaches for administering the Technical Assistance Grant Program. One Region's approach involves three distinct stages of project administration with different coordinators for each implementation stage of the program. Each coordinator manages implementation of his/her stage of the program without the support of a formally designated team. Another Region's proposal involves a Region-wide team of staff directed by a TAG coordinator who oversees all technical assistance grants for the Region.

These approaches are suggestions only; the roles of various staff and the composition of the team will vary depending on the Region. Regions may adopt

one of the staffing approaches outlined here or develop another staffing plan that better suits their particular needs as described in Section 2.4.

Rotating Staffing Approach

Under this approach, the CRC serves as the initial administrative coordinator and the primary contact for grant applicants. The CRC is responsible for announcing the availability of technical assistance grants to site communities and providing information about the program. The CRC also is responsible for fulfilling all notification requirements and for organizing community relations activities. These activities may include conducting public meetings or workshops, issuing press releases and preparing public notices or mailings during the application submission phase of the project.

Once the availability of a technical assistance grant at a site has been announced and letters of intent or applications have been submitted, the lead staff role shifts from the CRC to a designated Superfund official. This official is responsible for the review of applications and the selection of the grant recipient. The Superfund official also becomes the primary contact for citizens' groups during this administrative phase of the project.

Once an award has been made, the lead staff role shifts again -- this time to the AAU in a Region. This office becomes the primary contact for citizens' groups and is responsible for administering, managing, and monitoring all work performed under the terms of the EPA grant agreement for the remainder of the project's life.

Single Contact Approach

This approach designates one staff person as the coordinator for the Technical Assistance Grant Program in each Region. This TAG coordinator would oversee a Region-wide team that would include: the RPM, CRC, Removal Coordinator, a grants specialist from the AAU, FMO staff, and, if appropriate, a representative from ORC and a representative of the State. Under the direction of the TAG coordinator, this staff will implement the various aspects of the Technical Assistance Grant Program such as conducting notification and community relations activities, reviewing applications and selecting the grant recipient, and monitoring the recipient's project performance and compliance with all applicable regulations. The TAG coordinator ultimately will be responsible for ensuring that all tasks related to the technical assistance program are carried out.

2.4 Regional Procedures (Reserved)

3. STATE INVOLVEMENT

Section 121(f) of CERCLA , as amended, encourages States to assume a "substantial and meaningful" role in implementing the Superfund program. EPA is confident that State governments are well able to administer the Technical Assistance Grant Program. Furthermore, EPA believes that States can best ensure that broad community interests are represented and can identify citizens' groups that will most effectively disseminate the technical advisor's conclusions to the community at large. Therefore, EPA Regions should strongly encourage States to take a leadership role in the Technical Assistance Grant Program. States, however, may determine for themselves the level of their involvement in the Technical Assistance Grant Program.

EPA has determined that States can administer all aspects of the Technical Assistance Grant Program with two exceptions. The statute requires that EPA must make decisions regarding waivers of the matching funds requirement and the $50,000 per site grant limitation.

3.1 State Administration of the Technical Assistance Grant Program

States wishing to become involved in administering the Technical Assistance Grant Program must inform the appropriate EPA Regional Administrator. If a State chooses to administer the Technical Assistance Grant Program, the State must do so in conformance with the IFR. EPA must negotiate a cooperative agreement with the interested State to allocate both technical assistance funds and administrative costs to the State. A State will receive $10,000 for administrative costs for the first technical assistance grant for a site and 8 percent of the grant amount for each subsequent site. For the purpose of calculating a State's administrative costs of a multi-site grant, each site should be counted as if it were a separate grant award.

In addition to negotiating a cooperative agreement to allocate funds, Regions are advised to prepare a State memorandum of agreement (SMOA) to clearly define both the State's and EPA's roles in administering the program. If there is an existing Superfund cooperative agreement, SMOA, or other written agreement between the State and EPA, this agreement can be amended to encompass administration of the Technical Assistance Grant Program. EPA is responsible for oversight of State-lead Technical Assistance Grant Programs, as is the case with other Superfund programs.

Technical assistance grants may be available for non-Fund financed State response actions at NPL sites where there is no response agreement between EPA and the State. The State, however, must enter into either a cooperative agreement, SMOA, or other written agreement with EPA for administration of the Technical Assistance Grant Program.

At their discretion, States entering into technical assistance grant cooperative agreements with EPA may notify EPA when they receive letters of

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intent and applications, and consult with EPA prior to awarding a grant. States may provide grant assistance to citizens' groups in two ways: (1) award a subgrant to a recipient group; or (2) actually acquire technical services on behalf of a recipient group. Under the first option, a State negotiates a subgrant with the recipient group whereby technical assistance funds are distributed to the citizens' group through reimbursements for expenditures (IFR Section 35.4075). A State that elects this option is responsible for monitoring the subgrant to ensure that the recipient complies with the terms of the subgrant and with all applicable regulations, including 40 CFR Parts 30 and 33, and the IFR.

Alternatively, if a recipient group agrees, States may acquire the goods and services for technical assistance on behalf of the recipient group and then provide those goods and services to the grant recipient in lieu of cash. The State, with assistance from the recipient, can identify precisely what services are needed at a site and what contractors are capable of providing those services. The recipient group may work closely with the State in soliciting proposals, reviewing bids, recommending the technical advisor, and managing the technical advisor. The State, however, will make the final selection of the technical advisor. A State that elects this option becomes directly responsible for awarding the technical assistance subagreements, submitting financial and progress reports, and for managing and disbursing all grant funds in compliance with applicable EPA regulations and requirements.

If a State assumes either of the roles described above, the TAG Project Officer's responsibilities described in Chapter 2 of this Regional Guidance Manual may be adopted by the State. Because this guidance manual was written for use by EPA Regional staff, however, States are encouraged to modify this guidance for State-specific use.

Disputes Concerning State Actions

Section 35.4095 of the IFR provides that a grant applicant and/or recipient dissatisfied with an official decision made under a State-administered Technical Assistance Grant Program may request the State agency to review its original decision. The State must provide the basis for its final decision in writing -- normally within 45 days of the date it receives the petition. The final decision must inform the petitioner of his or her right to request EPA review if the State's final decision remains adverse to the grant applicant/recipient. If the State fails to comply with these requirements, EPA still may conduct a review.

Grant applicants/recipients requesting EPA review of a State's decision must file a request within 30 days of the State's final decision, or within a reasonable time if the State does not respond in writing to an applicant's/recipient's request for State review. Requests for EPA review must be sent by registered mail, with a return receipt requested. They should include:

a) a copy of any written State decision;

b) a statement of the amount in dispute, if any;

c) a description of the issues involved; and

d) a concise statement of objections to the State decision.

The EPA review will be conducted by a dispute decision official (DDO) or, when EPA finds that the State review was comparable to a DDO's review under 40 CFR Part 30, Subpart L, the Regional Administrator will perform the review. If dissatisfied with this level of review as well, the grant applicant/recipient may request review of the Regional Administrator's decision by the Assistant Administrator for Solid Waste and Emergency Response at EPA Headquarters, according to 40 CFR Part 30.1225 and Section 35.4095 of the IFR.

3.2 State Role Under EPA Administration of the Technical Assistance Grant Program

Where EPA remains the lead agency in implementing the Technical Assistance Grant Program, the State role may vary. As set forth in Section 35.4015(a) of the IFR, EPA will begin accepting technical assistance grant applications and awarding grants in consultation with the States at the earliest possible date. At a minimum, States will have the option of participating in the Technical Assistance Grant Program through the intergovernmental review process. It is recommended that Regions encourage States to participate in the program in addition to their intergovernmental review and program consultation roles. As stated above, it is Agency policy to encourage State **administrative** involvement in the Technical Assistance Grant Program at all eligible sites within its jurisdiction.

When EPA is the lead agency in administering the program, EPA should notify the States of the availability of technical assistance grants at particular sites to encourage suggestions from States regarding community groups that should be alerted to the availability of such a grant in order to ensure broad community representation among recipient group members. Furthermore, Regions are encouraged to include a State Superfund program representative on the application review team for sites where EPA has the lead. Regions are encouraged to consult with States, where practical and feasible, about award decisions. At a minimum, EPA should inform a State Superfund program representative of the receipt and award of a technical assistance grant.

Intergovernmental Review

To establish coverage of the Technical Assistance Grant Program under the intergovernmental review process, States were required to notify EPA by April 25, 1988 as to whether they would review technical assistance grant applications. EPA will accommodate the review process of those States responding affirmatively (see Exhibit 3-1). States can opt to include the program in their intergovernmental review process at a later time, but applications submitted to EPA prior to the State's notification of EPA are not subject ro review under Executive Order 12372.

As a courtesy to applicants, TAG Project Officers should include in acknowledgement letters responding to letters of intent whether or not the

EXHIBIT 3-1

STATES INCLUDING THE Technical Assistance Grant Program IN THE INTERGOVERNMENTAL REVIEW PROCESS (as of May 10, 1988)

Region I

Connecticut
Maine
New Hampshire
Rhode Island
Vermont

Region II

New Jersey
Puerto Rico

Region III

Delaware
Pennsylvania

Region IV

Florida
Mississippi
South Carolina
Tennessee

Region V

Indiana
Michigan
Ohio

Region VI

Arkansas

Region VIII

Montana

Region IX

Arizona
California
Hawaii

Region X

Oregon
Washington

applicant's State is participating in the intergovernmental review process. Otherwise, applicants must contact their State's Single Point of Contact (SPOC) to learn if their application is subject to the State's review. They then must complete Section II of their grant application accordingly and comply with the State's review procedure. The State has 60 days to review each application, at which time the State must forward its comments on the application to the Regional Grants Office. EPA must accomodate a State's recommendations or explain to the SPOC why it has not adopted the State's recommendations before funding the application.

A State may at any time decide to change its coverage of programs for intergovernmental review. If a State chooses to discontinue review of technical assistance grant applications, it must notify the Headquarters Grants Administration Division.

4. APPLICATION SOLICITATION AND RECEIPT

4.1 Encouraging Consolidation of Groups

Section 117(e)(2) of CERCLA, as amended, states that, "[n]ot more than one grant may be made under this subsection with respect to a single facility...." As a result, only one group can receive a technical assistance grant for any one NPL site, although a variety of groups may apply. While the Agency is not requiring consolidation, groups should be encouraged to form coalitions whenever possible.

EPA staff should stress to potential applicants that their chances of receiving a grant will be greatly improved if they involve in their project a broad range of groups affected by the site. At sites where there are several groups interested in applying for a grant, the Superfund RPM or CRC may consider conducting public meetings and arranging for Superfund contractor staff to provide facilitation services to assist groups in consolidating. EPA, at its discretion, may provide facilitation services.

Offering such groups the services of a facilitator may assist the groups in exploring the pros and cons of consolidation. Facilitation may help to bring the groups together to achieve broader public representation of the affected groups and/or individuals. One example of the appropriate use of a facilitator is in a situation where a site affects more than one State or Region. If citizens' groups from more than one State and/or Region are interested in a grant for the same site, the existence of a political border between them may dampen their interest in consolidating applications.

Consolidation may increase the group's chances of receiving a technical assistance grant since there is only one grant available per site and broad representation is one criteria by which groups will be evaluated. Consequently, consolidation may lead to a higher application score. Additionally, consolidation will help ease EPA's administrative burden by reducing the need to review multiple applications. Generally, however, it shall be the responsibility of the groups to form their own coalition and coordinate the completion and submittal of their application.

4.2 Notification Techniques

To encourage both consolidation and broad community representation, Superfund community relations staff should utilize a variety of techniques to fully inform communities about this program. Staff should consult the document, Community Relations in Superfund: A Handbook, for suggested approaches that could supplement and enhance the techniques discussed below.

At sites where response activities are expected to begin within the coming fiscal year, formal notice should be provided to the site community as soon as funding is allocated in the SCAP for site work. At sites where work is already underway, formal notice must be provided to other interested parties upon the

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receipt of the first letter of intent to file an application (letters of intent are discussed in detail in Section 4.3). Formal notice can be provided through public notices, mailings, workshops or meetings as outlined below. EPA staff must implement at least one of the following activities to notify the public that EPA has received a letter of intent:

- o publish a public notice in newspapers of general circulation in the area surrounding a site;
- o send a mailing to all citizens and citizens' groups on the site mailing list;
- o conduct a workshop on the Technical Assistance Grant Program (this activity may be combined with the RI work plan kick-off meeting); or
- o hold small group meetings to bring together all interested community groups for the purposes of consolidation.

A public notice or mailing announcing the availability of technical assistance grants should indicate: (a) which EPA Region or State is administering the program; (b) the appropriate contact person within EPA or the State; and (c) whether EPA or a State has the lead responsibility for technical site work. If applicable, the public notice or mailing also should provide the name and address of the contact person for the citizens' group that filed the initial letter of intent. In addition, the public notice or mailing should state that if other citizens' groups choose to apply for a grant, they must file letters of intent. (Exhibit 4-1 provides a sample public notice.)

4.3 Processing Letters of Intent

All citizens' groups interested in applying for a technical assistance grant must first submit a letter of intent to EPA. When EPA receives a letter of intent for a site that is eligible for a grant, it must begin the formal community notification process described above. Other potentially interested groups will have 30 days from the date of the publication of the notice, mailing, or workshop to join with the first group to form a coalition and prepare one application. If no other groups are interested in forming a coalition, they may submit a grant application. If the groups are unable to form a coalition, they must submit a letter of intent to EPA before the 30 day period expires. EPA then will accept separate applications for an additional 30 day period from all interested groups who previously filed a letter of intent. EPA should notify all applicants that other groups intend to file an application and have been given an additional 30 days for the submission of a grant application. EPA may consider written requests for an extension of the time provided by EPA to file an application.

There may be instances where EPA receives a completed application without a preceding letter of intent. In these cases, Agency staff will consider an application to take the place of a letter of intent and should follow the

EXHIBIT 4-1

DRAFT PUBLIC NOTICE

The U.S. Environmental Protection Agency (EPA) in Region I has received a letter of intent to apply for a technical assistance grant at the Woodtown Landfill Superfund site from the Woodtown Landfill Coalition. By law, only one grant for up to $50,000 may be awarded to a citizens' group at any one site on the National Priorities List. Because of this limitation and in order to ensure that all community views are represented in recipient groups, EPA encourages all citizens' groups interested in applying for a technical assistance grant at the Woodtown Landfill site to consolidate with the Woodtown Landfill Coalition and file a joint application. Within 30 days from the date of this notice, groups that wish to join with the Woodtown Landfill Coalition for the purposes of this grant application must notify:

Ms. Pat Jones, Executive Director
Woodtown Landfill Coalition
Main Street
Woodtown, Connecticut 06798

Groups wishing to file a separate grant application must, within 30 days of [insent date of notice], submit to EPA a letter of intent to file an application. All groups then will have an additional 30 days to file an application. If only one group submits a letter of intent, they may submit a grant application 30 days from the date of this notice.

All applications must be filed within 60 days of today's date. Groups that require additional time to draft a letter of intent or to file an application may submit a written request for an extension to EPA for consideration. Additional information may be obtained from Ms. Ann Parker, EPA Region I Technical Assistance Grants Project Officer. Letters of intent to apply for a technical assistance grant for the Woodtown Landfill site, as well as grant applications, should be sent to:

Ms. Ann Parker
Technical Assistance Grants Project Officer
U.S. Environmental Protection Agency
Region I
John F. Kennedy Federal Building
Boston, Massachusetts 02203
Phone: (617) XXX-XXXX

appropriate notification procedures outlined below. However, the applicant need not submit another grant application unless they choose to coalesce with other citizen's groups as a result of the notification process. If a coalition is formed, then the initial applicant group should be directed to modify their application and resubmit it.

In cases where a response action has not begun at the time of submittal of the initial letter of intent or grant application, Regional staff must respond to the applicant in writing informing the group that site work has not been scheduled and the group's application cannot be considered at this time. The letter also should State that EPA will notify the group at the appropriate time to determine if the group is still interested and to determine if their original application requires updating.

The following steps for processing letters of intent are suggested, though these steps can be modified to meet the specific needs of a Region. Exhibit 4-2 is a flow chart illustrating this process. Each step on the flow chart is numbered and explained below:

1. Letter of intent to file a grant application is received and processed by the AAU.

2. TAG Project Officer is assigned if not already designated.

3. The TAG Project Officer then circulates a copy of the letter of intent to the RPM, the CRC, or the State and other interested offices for the site. The RPM notifies the TAG Project Officer as to whether a response action is underway at the site is scheduled to begin in the next fiscal year as indicated by EPA's Annual Superfund Comprehensive Accomplishments Plan (SCAP).

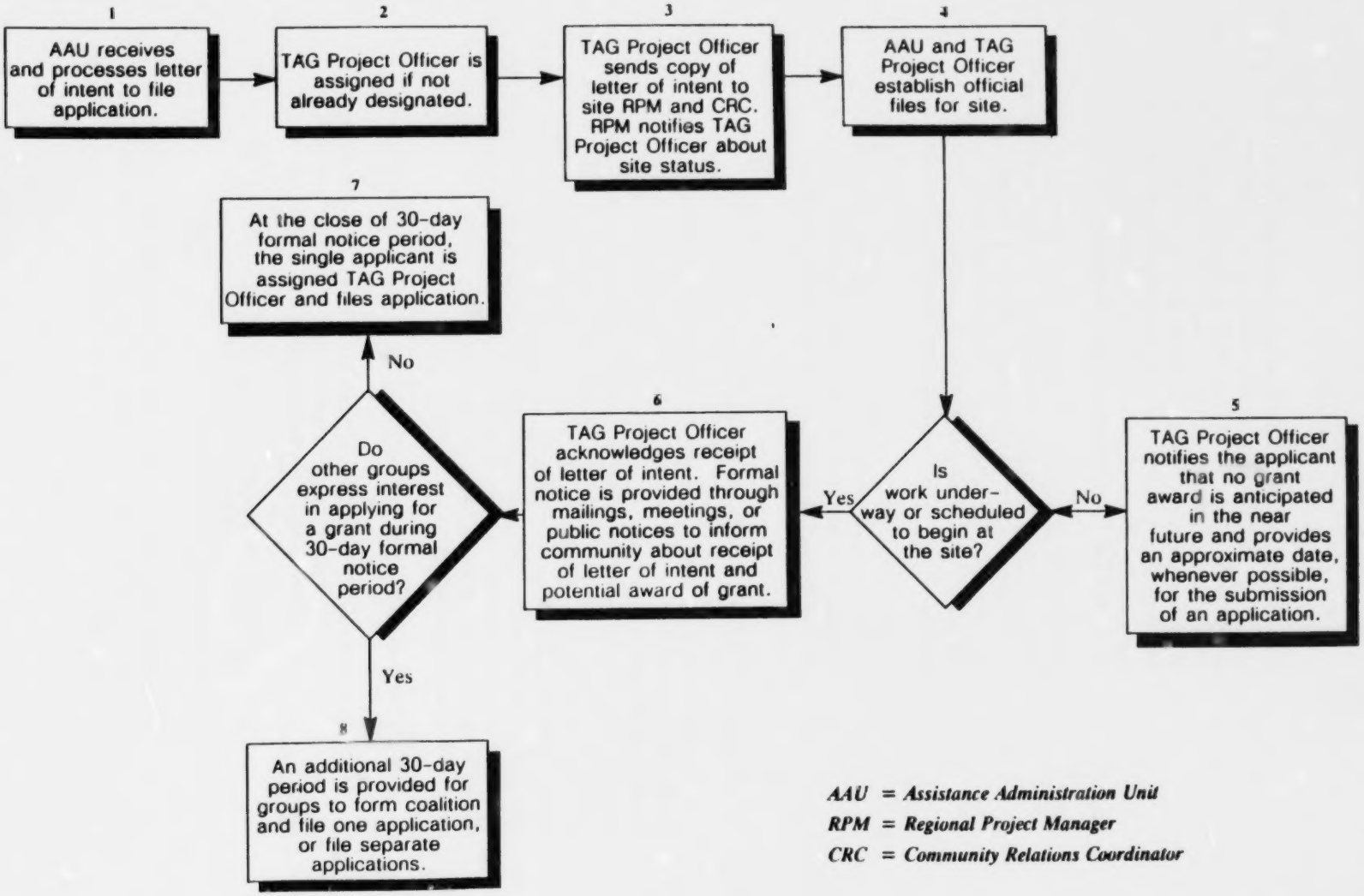
4. The AAU and the TAG Project Officer each establish files for the site.

5. If a response action is not underway or scheduled to begin, the the TAG Project Officer should notify the applicant, in writing, within 30 days that no grant award is anticipated in the near future and should indicate to the applicant, whenever possible, the approximate timing for submission of an application. Community relations staff should ensure that the applicant is added to the site mailing list.

6. If a response action has begun or is scheduled to begin as indicated by the SCAP, in cooperation with the TAG Project Officer, the CRC will conduct meetings, issue mailings, and/or publish public notices announcing the receipt of the initial letter of intent to file an

Exhibit 4-2

Steps in Processing Letters of Intent


1
AAU receives and processes letter of intent to file application.
2
TAG Project Officer is assigned if not already designated.
3
TAG Project Officer sends copy of letter of intent to site RPM and CRC. RPM notifies TAG Project Officer about site status.
4
AAU and TAG Project Officer establish official files for site.
5
TAG Project Officer notifies the applicant that no grant award is anticipated in the near future and provides an approximate date, whenever possible, for the submission of an application.
No
Is work underway or scheduled to begin at the site?
Yes
6
TAG Project Officer acknowledges receipt of letter of intent. Formal notice is provided through mailings, meetings, or public notices to inform community about receipt of letter of intent and potential award of grant.
Do other groups express interest in applying for a grant during 30-day formal notice period?
No
7
At the close of 30-day formal notice period, the single applicant is assigned TAG Project Officer and files application.
Yes
8
An additional 30-day period is provided for groups to form coalition and file one application, or file separate applications.

AAU = ***Assistance Administration Unit***
RPM = ***Regional Project Manager***
CRC = ***Community Relations Coordinator***

application for the single technical assistance grant for that site. The purpose of this community relations effort is to notify other potential applicants that they have the opportunity to form a coalition with the first group or submit a letter of intent to file an application. (A formal application from a group which has not first submitted a letter of intent will be considered a letter of intent for the purposes of this program.)

7. At the close of the 30-day formal notice period, if no other citizens' groups have signified interest in applying for a technical assistance grant, the TAG Project Officer should instruct the sole potential applicant initially by telephone and then in writing to file an application with the appropriate Regional contact.

8. If during the 30-day formal notice period, additional groups express interest in applying for the grant but cannot form a coalition, EPA will provide an additional 30-day period to allow all groups to file separate applications.

Request for Application Filing Extensions

Application filing extensions may be requested in writing during the second 30 day period and may be granted at EPA's discretion. All written requests should justify the need for such an extension. The TAG Project Officer should consider both the justification and the circumstances surrounding the need for an extension. Before granting on extension, the TAG Project Officer should consult with the Grant Review Team. In the event that an extension is approved, the Agency should grant no more than a 30 day extension. The TAG Project Officer then should notify other applicants that an application filing extension has been granted and, consequently, that an award decision will be delayed. However, the schedule for response activities at a site will not be affected by the technical assistance grant application process.

Application filing extensions may be justified in situations where:

- consolidation efforts are progressing slowly due to the involvement of a significant number of affected groups and individuals with widely divergent perspectives;

- applicants believe that the lead agency, whether EPA or the State, has not conducted adequate or timely notification efforts; and

- applicants can substantiate that they were not provided adequate or timely information by EPA or the State which is needed to complete the application.

Prioritizing Letters of Intent

There will be a need to prioritize letters of intent within each Region to ensure that communities with the most immediate need for technical assistance have access to grant monies as quickly as possible. Every effort should be made to ensure that grant awards will be made in sufficient time for groups to obtain an advisor by the start of the RI/FS. Regions should prioritize the processing of letters of intent in the following order:

1) sites where RI/FS work is well underway, but prior to the record of decision being issued at the last operable unit;

2) sites where the RI/FS work plan has been developed and/or the RI/FS has begun but a record of decision is at least six months away;

3) sites where an RI/FS is scheduled to begin within the next six months;

4) sites where an RI/FS is scheduled to begin within the next fiscal year;

5) sites where the funds for the RI/FS have been obligated but no work has begun; and

6) sites where design, construction, or operation and maintenance are underway.

Prioritizing When Funds Are Limited

When funds are limited (e.g., during periods prior to reauthorization), Regions will need to set priorities among sites where grants will be awarded. Factors to consider in ranking the sites are:

1) risk to citizens' health or welfare posed by the site;

2) pre-ROD stage in the Superfund cleanup process;

3) history of public involvement at the site; and

4) threat to the environment posed by the site.

Other factors -- such as financial need -- also could be considered.

Releasing Names and Addresses of Applicants

Applicant's names and addresses are available under the Freedom of Information Act. Regions may need to develop a tracking system to respond to

such requests. As for requests from citizens to be placed on a permanent mailing list for notification of each subsequent application, the Agency-to-date has not created such a system. Such requests may be denied since no system exists.

5. THE GRANT APPLICATION REVIEW AND AWARD PROCESS

5.1 Application Review and Award

EPA must review all applications for technical assistance to determine the relevance of the proposal to EPA program objectives. Reviews must be consistent with applicable regulations and established EPA criteria. The responsible agency must ensure that any proposed grant agreement meets the requirements of 40 CFR Part 30 and the regulations for the Technical Assistance Grant Program (40 CFR Part 35, Subpart M). In addition to the standard procedures outlined in Chapter 12 of the Assistance Administration Manual for review and award of assistance agreements, reviewers of technical assistance grant applications must determine that the proposals meet the responsibility requirements and evaluation criteria established in the IFR for the Technical Assistance Grant Program and further outlined in the Citizens' Guidance Manual for the Technical Assistance Grant Program.

Regions should note that Congress, in their 1988 Appropriations Committee Report, instructed EPA "to act expeditiously" in making technical assistance grant awards. As a result, Regions should act promptly to inform grant applicants of any action taken on their application. This action can include making an award; rejecting an application; or delaying action until a response action is scheduled to begin or is underway at a site, as outlined in the IFR. A decision to award a grant cannot be made until an application is complete. Once an application is complete (to be complete, the application must go through the intergovernmental review process, if required), an award decision should be made within 30 days.

A Regional grant review team should be designated and convened to review assess technical assistance grant applications and to make the grant awards. The composition of the review team will vary, however, depending on Regional staffing levels and priorities, but is likely to include:

- the TAG Project Officer;
- a grants specialist;
- the RPM for the site, the RPM for Enforcement, or ORC if legal or enforcement issues are involved;
- the CRC for the site; and
- the On-Scene Coordinator (included only when long-term removal activities are anticipated at the site).

For those EPA personnel who may be unfamiliar with the standard EPA grant review and award procedures, the following is a list of steps in the EPA grant award process with additional steps added specifically for the Technical Assistance Grant Program. Major steps are discussed in detail in the remaining

sections of this chapter. Exhibit 5-1 presents a flow chart illustrating the overall process. Each step on the flow chart is numbered and explained below:

1. The application is received by the Regional AAU; an EPA Assistance Identification Number and program code number are assigned to the application.

2. The TAG Project Officer is assigned if he/she has not yet been designated, and official EPA project files are created if they have not yet been established. (See Chapter 5 of the Assistance Administration Manual.)* These files consist of:

   - o the official administrative file maintained by the AAU for each application. This file contains documents providing EPA's funding or rejection decision, principal operating activities, and required reporting through project completion, close-out, and audit;

   - o the technical file maintained by the sponsoring program office/TAG Project Officer. This file is a record of activities conducted under the grant, such as progress reports; and

   - o the financial management file maintained by the FMO. The FMO establishes, maintains, and retires the official financial records for an assistance agreement.

3. EPA acknowledges receipt of the application.

4. The AAU enters information into the EPA Grants Information and Control System (GICS) for tracking the application throughout the review process in accordance with the GICS Manual.

5. The AAU then performs an administrative review of the application, which includes checking that the application is complete and performing an arithmetic review of the budget.

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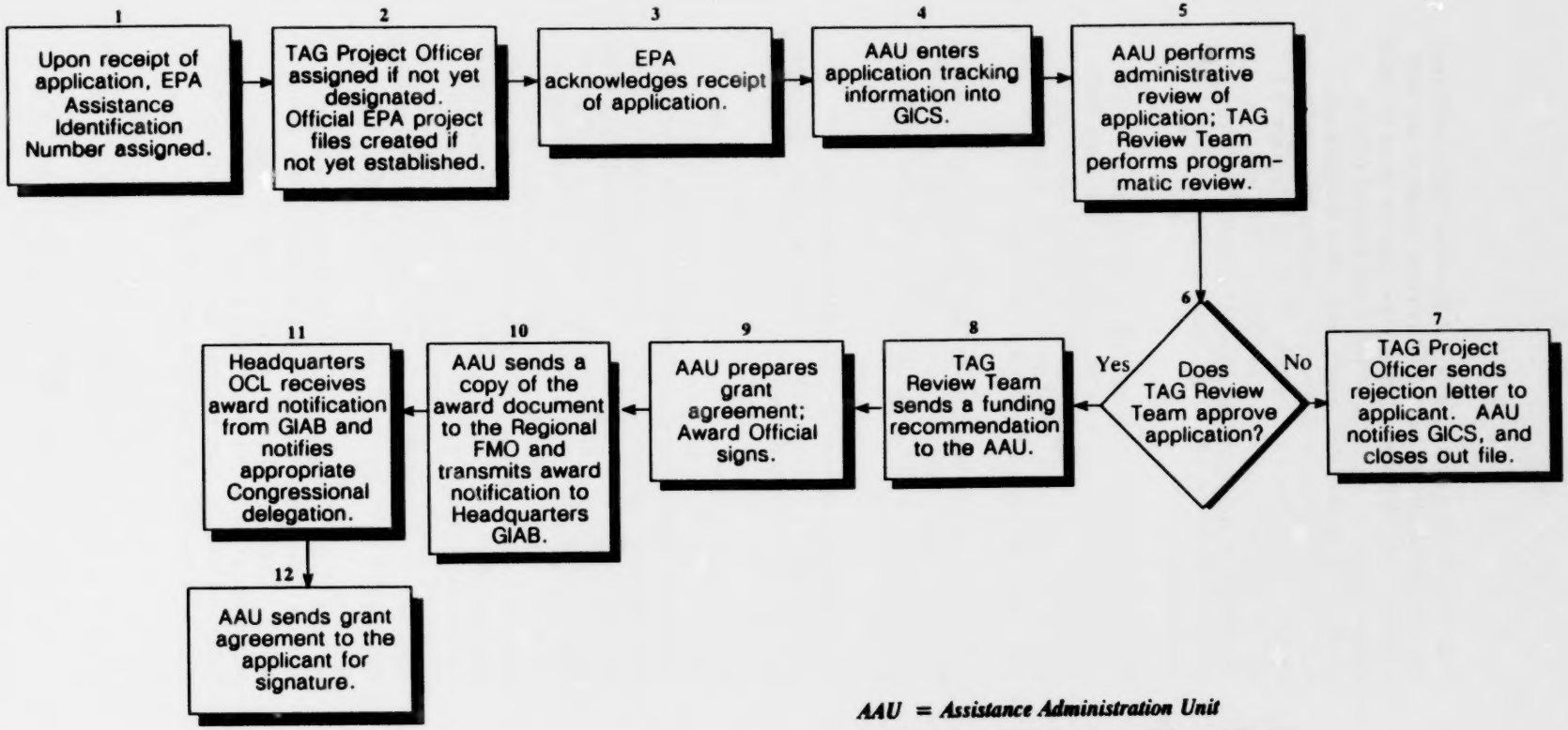
*As previously mentioned, it is recommended that these actions be taken when letters of intent are processed.

Exhibit 5-1

Steps in The Grant Application Review and Award Process

(Duration = 4-9 weeks)


1
Upon receipt of application, EPA Assistance Identification Number assigned.
2
TAG Project Officer assigned if not yet designated. Official EPA project files created if not yet established.
3
EPA acknowledges receipt of application.
4
AAU enters application tracking information into GICS.
5
AAU performs administrative review of application; TAG Review Team performs programmatic review.
6
Does TAG Review Team approve application?
Yes
No
7
TAG Project Officer sends rejection letter to applicant. AAU notifies GICS, and closes out file.
8
TAG Review Team sends a funding recommendation to the AAU.
9
AAU prepares grant agreement; Award Official signs.
10
AAU sends a copy of the award document to the Regional FMO and transmits award notification to Headquarters GIAB.
11
Headquarters OCL receives award notification from GIAB and notifies appropriate Congressional delegation.
12
AAU sends grant agreement to the applicant for signature.

***AAU** = Assistance Administration Unit*
***GICS** = Grants Information and Control System*
***GIAB** = Grants Information and Analysis Branch*
***OCL** = Office of Congressional Liaison*
***FMO** = Financial Management Office*

6. The Technical Assistance Grant Review Team performs the programmatic or technical review to select the best proposal for funding. This review may be done by staff assigned to the site such as the TAG Project Officer, RPM, CRC, grants specialists, and other designated staff. Staff should endeavor to complete this review as rapidly as possible (e.g., within 30 days). (Section 5.3 of this guidance manual and Chapter 12 of the Assistance Administration Manual provide further information on technical or programmatic review procedures.)

7. If an application is rejected, the TAG Project Officer sends a rejection letter to the applicant outlining the reasons for rejection and sends a copy of the letter to the AAU. The AAU notifies GICS of the rejection and closes out the official administrative file.

8. If the application is approved, the Review Team sends a funding recommendation to the AAU. **Under no circumstances do the program staff notify the applicant of award approval.**

9. If the application receives administrative and programmatic approval for funding, an grant agreement (EPA Form 5700-20A) is prepared signed by the Award Official. (See Chapter 15 of the Assistance Administration Manual for further information on preparing grant agreements.) Upon signature, the document becomes an offer from EPA to the applicant and obligates committed funds. The Award offers are not mailed to the recipient until five working days after the Award Official signs the agreement (this restriction does not apply to rejection, decrease, or withdrawal actions). During this five day period, various internal EPA offices (the Office of Congressional Liaison within Headquarters Office of External Affairs, Headquarters Grants Information and Analysis Branch (GIAB), the Office of Regional Counsel, and the EPA Administrator) must be notified of the award before any person outside the Federal government is informed of the decision.

10. As part of the funding recommendation, the Grant Review Team should prepare a commitment (of funds) notice. The AAU then forwards a copy of the commitment notice to the FMO for entry into the financial management system. The award notification also is transmitted to Headquarters GIAB.

11. The AAU must provide a copy of page one (SF 424) of the grant agreement to GIAB within one working day following signature by the Award Official. The Office of Congressional Liaison receives award notifications from GIAB and notifies the appropriate Congressional delegation prior to notification of the recipient. This notification process serves only as an informational function and does not require any response from the Congressional delegation.

12. At the end of the five-day waiting period, the AAU notifies the group that they have been awarded a technical assistance grant. An original and one copy of the grant agreement is sent to the applicant for signature. The applicant must either sign and return the agreement within three calendar weeks of the date the agreement is postmarked or request an extension; otherwise the application is void.

5.2 Application Requirements

Chapter 3 and Appendix A of The Citizens' Guidance Manual for the Technical Assistance Grant Program contains detailed instructions explaining the proper procedures for filling out an application. EPA personnel should familiarize themselves with the instructions provided to citizens.

The extent to which EPA personnel assist groups in completing applications will be left to the discretion of the Regions. EPA staff are advised to provide the same level of assistance to all groups competing for a single application at a site. It is important to provide equal support to each competing group to avoid appearances of favoritism of any one of the groups applying for the grant. For example, the Region may want to hold a workshop on the grant application process for all interested groups at the beginning of the second 30 day filing period. Such a workshop would ensure that all applicants receive the same information and have an equal chance of successfully completing the application.

Applicants for technical assistance grants must submit the following materials in accordance with Section 35.4045 of the IFR:

- an original and two copies of EPA Form 5700-33, "State and Local Nonconstruction Programs." The primary application must have the original signature of the citizens' group's authorized representative;

- a budget showing the proposed expenditure of funds, and how the funds and other resources, including the required 35 percent match, will be used to complete the project (for the purposes of

this program, a budget period will not exceed three years); and

- Part IV of the grant application, "Applicant Qualifications," which should contain a narrative statement showing compliance with the evaluation criteria in IFR Section 35.4035 and a Scope of Services.

Part IV of the grant application will be critical for determining a group's eligibility for receiving a grant and for determining their management capabilities, and is particularly important in determining an award when there are several competing applications. The following section provides checklists for reviewers to use in evaluating Part IV of the application.

5.3 Application Scoring System

Initially, reviewers must determine whether or not applicants are eligible to receive a grant. Following this assessment, reviewers will evaluate each application using a two-tiered review system. During the first tier of review, reviewers must determine that an applicant meets the minimum administrative/ management requirements outlined in Section 35.4020 of the IFR. In the second tier of review, reviewers will use the evaluation criteria discussed below to score each application. The second tier is designed to ensure that the applicant meets the statutory and regulatory requirements for an "affected" group and that the group can make effective use of a grant. The second tier is particularly important in selecting one award recipient from among several competing applications. Both tiers of review should be completed before an application is approved or rejected.

Assessing an Applicant's Eligibility

The first step in reviewing an application is to determine if an applicant is ineligible to receive a grant. As stated in Section 35.4030 of the IFR, **ineligible** groups include:

- Potentially Responsible Parties (PRPs);
- Corporations that are not incorporated for the specific purpose of representing affected individuals at the site;
- Academic institutions;
- Political subdivisions (e.g., townships and municipalities); and
- Groups established and/or sustained by governmental entities (including emergency

planning committees and some citizen advisory groups).

Within these categories, there are some exceptions that should be considered. Citizen advisory groups that are established and funded by government entities and have elected officials as members are ineligible. However, some citizen advisory groups that organized themselves and were then later reorganized by a government entity as a representative body of the community, but are not supported by that or any other governmental entity should be considered eligible for a technical assistance grant. Questions regarding the eligibility of innocent landowners who are classified as PRPs should be directed to the appropriate EPA Office of Regional Counsel. Under Section 107(a) of CERCLA, as amended, landowners are subject to liability. However, CERCLA, as amended, provides a defense for innocent landowners (see Sections 107(b) and 101(35)), and for de minimus settlements (see Section 122(g)(1)(B)). Determinations are dependent upon the facts of each case. Additionally, individual members of ineligible groups are not precluded from participating as a member of an applicant and/or recipient group while acting solely in their capacity as an "affected" individual.

Tier 1: Responsibility Requirements

Reviewers next must determine whether a grant applicant has the capability to adequately manage a technical assistance grant as mandated by 40 CFR 35.4020. This "Responsibility Requirements" section of the IFR states that "an applicant must meet the minimum administrative and management capability requirements set forth at 40 CFR 30.301." Additionally, an applicant must be incorporated as a non-profit organization for the purpose of addressing the Superfund site for which the grant is provided in order to be eligible to receive a grant.

Administration and Management Capability

An applicant must demonstrate that the group has developed a sound plan for managing its technical advisor, including establishment of reliable procedures for recordkeeping and maintaining financial accountability in accordance with 40 CFR 30.301. Grants can only be awarded to groups that have the ability to meet the following criteria in 40 CFR 30.301:

1. Financial resources, technical qualifications, experience, organization, and facilities adequate to carry out the project, or a demonstrated ability to obtain these;

2. Resources to meet the project completion schedule contained in the assistance agreement;

3. A satisfactory performance record for completion of projects and subagreements or an organizational structure that indicates their ability to complete projects and award subagreements;

4. Accounting and auditing procedures adequate to control property, funds, and assets, as required in Subpart E of Part 30;

5. Procurement standards that comply with Part 33 of this subchapter;

6. Property management systems for acquiring, maintaining, safeguarding, and disposing of property, as required in Subpart E of Part 30; and

7. Demonstrated compliance or willingness to comply with the civil rights, equal employment opportunity, labor law, and other stautory requirements under Subpart F of Part 30.

The purpose of these requirements is to ensure that groups applying for technical assistance grants have established reliable procedures for managing a grant and guiding their technical advisor project. Few, if any, groups will have had previous experience managing a project of this type or an EPA grant. As a result, reviewers will need to evaluate a group's ability to manage a technical assistance grant based on a minimal amount of information.

The grant application requirements detailed in the IFR only require groups to supply a narrative statement stating their intention to meet the responsibility requirements. While no supporting documentation is required to be submitted with the application, **TAG Project Officers should remind groups that they must be able to document any statements that they make in their application in case of an audit.** Chapter 3 and Appendix A of The Citizens' Guidance Manual for the Technical Assistance Grant Program provide a sample grant application that outlines what information is expected from a grant applicant with regard to the responsibility requirements. In addition to the narrative statement, reviewers also should examine a group's entire grant application within the context of 40 CFR 30.301. The Scope of Services and budget sections of the application, in particular, can provide indications of a group's management capabilities. A group that has produced a sound plan for using the technical advisor with clear objectives and a well-developed budget in their grant application is demonstrating their capability to manage a project of this type and indicating that they are likely to responsibly control government grant monies.

Incorporation Requirements

An additional responsibility requirement listed in Section 35.4020 of the IFR is that all technical assistance grant recipients must be incorporated as a non-profit organization for the purpose of addressing the Superfund site for which the grant is provided in order to receive a grant. An applicant may meet this requirement by stating that the group, if it is not incorporated, has specific plans for incorporating if it is awarded a grant. Once awarded a grant, the group must affirm that it has filed the appropriate incorporation documents with the State. EPA should encourage the group to incorporate during the three week period in

which they can sign the award document. In the event that the group is not incorporated at the time of the award, a special condition should be added to the grant. This special condition should state that the recipient will be incorporated by the time of the first reimbursement request.

On or before the date that the first request for reimbursement is filed, the recipient must submit documentation (most likely a letter from the State) showing that the group has been officially incorporated by the State. If such documentation is absent, EPA will not reimburse the grant recipient for the requested funds and may annul the grant.

In some situations, the pre-existing incorporated status of a citizens' group may be sufficient to meet the eligibility requirements of the Technical Assistance Grant Program. One such case might involve a group that was incorporated as a non-profit organization and whose membership represents all members of the applicant group (e.g., a local environmental group formed specifically for the purpose of overseeing the site cleanup).

In most cases, however, applicant groups will find it necessary or practical to incorporate specifically for the Technical Assistance Grant Program. The obvious case includes a situation where individual citizens have consolidated as an applicant group. Another situation might exist where several pre-existing, incorporated non-profit groups representing affected individuals at the site consolidate to form one applicant group. In both cases, it is practical and necessary for these applicant groups to incorporate specifically for the purposes of the Technical Assistance Grant Program.

If a recipient has incorporated for the sole purpose of receiving a technical assistance grant, the necessary and reasonable costs of incorporation will be considered an eligible pre-award cost and may be charged to the grant or counted towards the maching funds requirement as outline in Section 35.4070(b) of the IFR.

Cap on Administrative Costs

Section 35.4085 of the IFR places a 15 percent cap on administrative costs under the grant. The percentage is calculated based on total project costs. EPA should encourage the grant recipient to assume all administrative costs as in-kind contributions so that the grant monies go directly for technical assistance. The Citizen Guidance Manual for the Technical Assistance Grant Program describes activities that are considered administrative and those that are not.

Responsibility Requirements Checklist

Figure 5-2 provides a checklist to assist reviewers in assessing a group's compliance with the responsibility requirements. Each of the criteria in 40 CFR 30.301, with the addition of incorporation, is listed followed by relevant questions that reviewers might consider while scoring an application to ensure adherence with the IFR Section 35.4020.

EXHIBIT 5-2

TECHNICAL ASSISTANCE GRANT APPLICATION SCORING FORM
TIER 1 REVIEW

APPLICANT: _____

SITE/STATE: _____

CRITERIA	DOES THE APPLICANT MEET THE CRITERIA? (YES/NO)*
1. Financial resources, technical qualifications, experience, organization, and facilities adequate to carry out the project, or a demonstrated ability to obtain these. - Does the group have an adequate organizational structure to carry out the project and provide the necessary oversight? - Does the group identify which officers or members will be responsible for financial oversight of the grant and for directing the technical advisor?	
2. Resources to meet the project completion schedule contained in the grant agreement. - Does the group adequately describe their plans for raising the matching funds and/or obtaining in kind contributions?	
3. An indication of ability to complete projects and subagreements. - Do the schedule and budget outlined in the grant application appear adequate for satisfactory completion of the technical assistance project?	
4. Accounting and auditing procedures adequate to control property, funds, and assets, as required in Subpart E of 40 CFR Part 30. - Has the applicant proposed or established procedures for recordkeeping or financial accountability related to management of the grant? - Do the costs estimated in the group's proposed budget appear reasonable in relation to the tasks proposed? - Does the applicant identify who will maintain the group's financial records? (continued)	

EXHIBIT 5-2

TIER 1 REVIEW SCORING FORM
(continued)

CRITERIA	DOES THE APPLICANT MEET THE CRITERIA? (YES/NO)*
5. Procurement standards that comply with 40 CFR Part 33. - Has the group submitted a procurement certification form?	
6. Property management systems for acquiring, maintaining, safeguarding, and disposing of property, as required in Subpart E, 40 CFR Part 30. - If the group proposes to acquire property with grant monies (unlikely under this grant program), do they have an adequate property management system in place?	
7. Is the group incorporated or are activities underway to ensure incorporation of the group prior to receipt of the grant award?	
8. Does the group meet the 15 percent cap on administrative costs?	

*To be approved the applicant must satisfy all 8 criteria.

ACTION TAKEN: _____ **Approved**

_____ **Disapproved**

EVALUATED BY: _____

DATE: _____

Tier 2: Evaluation Criteria

The second tier of review will determine whether the applicant qualifies as an "affected" group of individuals who can demonstrate direct ties to the site and can use the grant effectively. Reviewers will use five evaluation criteria to measure whether and to what extent an application meets this standard. Applicants must describe in a short narrative statement in the "Applicant Qualifications" section of Part IV of the grant application how they meet each of the five criteria outlined in the Section 35.4035 of the IFR. Applicants are not required to submit documentation when filing an application, however, they may be required to supply such documentation at a later time if a pre-award review or general audit is initiated.

The five criteria to be used in evaluating applications are:

1. The presence of an actual or potential health threat to group members by the site;

2. The applicant represents groups and individuals affected by the site;

3. The group plans to use the services of a technical advisor throughout the Superfund cleanup process;

4. The intention and ability of the applicant to inform others in the community of the information provided by the technical advisor; and

5. The presence of an actual or potential economic threat or other threat to group members such as the impaired use or enjoyment of the environment caused by the site.

Scoring the Criteria

Each of the five evaluation criteria is assigned a weight to emphasize the relative importance or significance of an individual criterion. The extent to which an applicant meets each criterion will be determined by an assigned score ranging from zero (not addressed or totally deficient) to four (excellent). After evaluating each individual criterion, the scores will be multiplied by the assigned weight. Finally, the scores of each criterion will be added to determine the total score for the application. The maximum score that an application can receive is 400 points (5 criteria which total 100 points x a perfect score of 4 on each criterion = 400 total points). For example, the maximum score that an application can receive on the health threat criterion discussed below would be 120 points (4 x 30 points = 120).

In general, each criterion will be evaluated according to the scoring plan outlined below:

Value	Description
0	Not addressed or totally deficient.
1	Poor.
2	Fair.
3	Good.
4	Excellent.

It is important to note that the same scoring system is used regardless of whether a single application or competing applications are submitted. In the event that a single application is submitted, reviewers must be particularly concerned with determining whether or not the group qualifies as an affected group and can adequately manage a grant for technical assistance. Therefore, reviewers should score the application to determine if the applicant adequately satisfies the requirements of the Technical Assistance Grant Program. A single application that does not meet minimum requirements can be rejected outright or sent back to the applicant to be revised. The scoring system, however, is particularly important in the event of competing applications for a single grant award. In this case, a comparative evaluation of the applications will be a significant factor in determining the most qualified applicant.

For each criterion listed below, a checklist of questions is provided for reviewers to use in evaluating the application (see Exhibit 5-3 for a Tier 2 Application Scoring Form). Questions also are provided for comparing competing applications. In addition, hypothetical examples are provided to assist reviewers in understanding the comparative factor associated with evaluating competing applications. The scores used in these examples are provided for illustrative purposes only and should not be construed as definitive. The weight assigned to each criterion appears in parentheses.

1. <u>The presence of an actual or potential health threat posed to group members from the site</u>. (30 points)

To substantiate this information, applicants must include in their applications a statement of no more than one page describing the actual or potential health threats posed to group members by the site, the number of group members facing such threats, and, where appropriate, any past actions taken by group members to resolve or make known their health concerns to local, State, or Federal officials. A group may meet this criterion by establishing that its members are subject to demonstrable health threats (whether actual or potential), or a health threat that group members reasonably perceive to be substantial.

The phrase "reasonably believed to be substantial" may be interpreted as any citizen concern that is rational, logical, credible, or justifiable. Belief or perception is a subjective quality. Agency staff do not have to agree with the belief or have proof that the belief is supported by evidence. Not all health concerns should be assigned equal value. Ordinarily, an applicant claiming the

EXHIBIT 5-3

TECHNICAL ASSISTANCE GRANT APPLICATION SCORING FORM
TIER 2 REVIEW

APPLICANT: _____

SITE/STATE: _____

CRITERIA	WEIGHT	X	RATING (0-4)*	=	TOTAL FOR CRITERION	JUSTIFICATION OR COMMENTS
1. Presence of an actual or potential health threat to group members from the site.	30	X		=		
2. Applicant best represents groups and individuals affected by the site.	20	X		=		
3. Identification of how the group plans to use the services of a technical advisor throughout the Superfund cleanup process.	20	X		=		
4. Demonstrated intention and ability of the applicant to inform others in the community of the information provided by the technical advisor.	20	X		=		
5. Presence of an actual or potential economic threat or threat of impaired use or enjoyment of the environment to group members that is caused by the site.	10	X		=		
TOTAL POINTS FOR CRITERIA (out of a possible 400)						

ACTION TAKEN: _____ **Approved**

_____ **Disapproved**

EVALUATED BY: _____

DATE: _____

*** Rating Definitions:**

0 = Not Addressed or totally deficient
1 = Poor
2 = Fair
3 = Good
4 = Excellent

presence of a demonstrable health threat will score higher than one whose claims are based solely on a potential threat. However, an applicant's inability to ascribe health problems to the site will not necessarily prevent that applicant from receiving a grant provided that the group meets the other criteria.

In the face of competing applications, an applicant that can show that the group faces a demonstrable health effect (for example, all group members are using bottled water as a result of a contaminated water supply) might receive a score of three or four. In contrast, a group that perceives a threat (for example, there are a large number of cancer cases in their neighborhood but no scientific evidence that shows the cancer has been caused by the site) might receive a score of two. A single application, based on beliefs or perceptions, would score higher in this category.

In measuring this criterion, reviewers should consider the following questions:

a. Does the site pose actual or potential health threats to the group or do group members reasonably believe that the site poses a threat? (Actual, documented health threats would receive a higher score than potential threats.)

b. What percentage of the group is affected?

c. What past actions have been taken by group members to resolve or to make known these health concerns (e.g., letters to agencies or officials, petitions for health assessments)?

2. <u>The applicant represents groups and individuals affected by the site</u>. (20 points)

The applicant must indicate, in no more than one page, the extent to which the group represents affected citizens, and an explanation of how they plan to involve other affected groups and/or individuals in the community who express interest in joining the coalition after the award of the technical assistance grant. For example, a group showing a high level of historical involvement and constituting a coalition of groups might be awarded a score of four. Conversely, a group of individuals with no historical involvement with the site and no stated intention to try to involve others might receive a score of one or zero.

In measuring this criterion, reviewers should consider the following questions:

a. Does the applicant represent a broad range of concerns expressed by the community related to the site? In the event of competing applications, does one applicant represent more "directly affected" individuals than another applicant?

b. Is the applicant willing to involve other community groups or individuals who wish to join the coalition after award of the grant?

c. Do members of the applicant group reside immediately around the site? In the event of competing applications, does one group represent more residents living near the site than another group?

d. Has the applicant had past involvement with the site (e.g., meetings, letters, hearings)?

e. Does the applicant group provide a statement substantiating their historical involvement with the site?

3. The identification of how the group plans to use the services of a technical advisor throughout the Superfund cleanup process. (20 points)

In Part IV of the application, applicants must document in no more than one page how the group plans to use the technical advisor. Applicants also must submit a schedule for having the technical advisor complete certain tasks. The Agency must identify the group that plans to use the technical advisor most productively. If there are competing applications, reviewers should award a higher score to the applicant that presents the most complete, effective, and efficient plan for using technical assistance funds to help citizens understand the Superfund cleanup process. An applicant that is unable to identify a significant or substantial need for technical assistance, or presents an incomplete schedule or poorly thought out plan for using the technical advisor should receive a low score. In comparison, an applicant who submits a well thought-out plan for using the technical advisor's services throughout the Superfund process and who shows how the goals of the project are related to certain tasks, should receive a relatively high score.

In evaluating an application, the reviewer should try to answer the following questions:

a. Does the applicant outline what tasks need to be performed by the technical advisor?

b. Does the applicant have a general understanding of the Superfund process and when technical assistance will be required?

c. Does the applicant present clear goals and objectives for their project?

d. Does the applicant establish that technical assistance will be needed throughout the Superfund process, from

the current point in the remedial process through the remedial action at the site?

e. Does the applicant present a schedule that reasonably apportions hours assigned to the specific tasks in its Scope of Services for efficiently using the services of the technical advisor throughout the Superfund cleanup process? [A model distribution of hours ordinarily should approximate a bell-shaped curve with the peak of the curve during the FS].

This criterion may be the most difficult for groups to address, particularly for groups that are unfamiliar with the Superfund process. The Citizens' Guidance Manual for the Technical Assistance Grant Program provides a chapter on the Superfund process highlighting opportunities within the process for utilizing a technical advisor. Groups having difficulty addressing this criterion should be advised to refer to this chapter.

4. The demonstrated intention and ability of the applicant to inform others in the community of the information provided by the technical advisor. (20 points)

Applicants must include in their application an outline of the activities that the group plans to use to inform other interested community members about the site. An application that presents a clear plan for disseminating information through meetings, publications, or press releases to the broader community should receive a higher score than one that indicates little ability or willingness to share information with others outside of the group.

Reviewers should try to answer the following questions when evaluating an application:

a. Does the group plan to have a newsletter or another publication for publishing the technical advisor's findings?

b. Does the group plan to issue mailings?

c. Does the group plan to hold meetings where the technical advisor will be available to the general public rather than just members of the group?

5. The presence of an actual or potential economic threat or threat of impaired use or enjoyment of the environment to group members that is caused by the site. (10 points)

A group may meet this criterion by establishing that its members are subject to demonstrable economic threats, either actual or potential, or to a threat that group members reasonably perceive to be substantial. Ordinarily, applicants claiming the presence of a demonstrable economic threat that is site-related, such

as reduced market value of their homes as estimated by local real estate agents or as assessed by their town for tax purposes, will score higher than one whose claims are based solely on a believed threat (e.g., concerns that the market value of their homes may drop because of the site). However, an applicant's inability to provide documentation of economic problems related to the site will not necessarily prevent that applicant from receiving a grant provided other criteria are met. If relevant, applicants should include a discussion of how conditions at a site have adversely affected their use or enjoyment of the surrounding environment. Applicants must include the number of group members affected and should outline what actions have been taken by group members to resolve or make known their concerns.

In measuring this criterion, reviewers should consider the following questions:

a. Does the group face an actual or potential economic threat (e.g., loss of property value or economic loss in use of the property for activities such as agriculture)?

b. Have group members lost the use of recreational facilities or has their enjoyment of the surrounding environment been adversely affected by conditions at the site? (For example, a group can no longer fish or swim in a river due to contamination from the site.)

c. What percentage of the group is affected?

d. What actions have been taken by the group to resolve or make known their economic or other concern(s)?

Reviewers must verify that grant applicants sufficiently explain these effects in Part IV of their applications by including statements of no more than one page discussing an actual or potential economic threat to group members.

If an application filed for a grant is deficient, Regional staff may wish to spend more time working closely with the group to develop a viable proposal. Reviewers should recognize that most citizens' groups will have little experience in applying for Federal grants and complying with the applicable regulations. Regions should determine, based on their available resources, how much assistance to provide to groups in revising deficient applications.

In contrast, if there are several applications for a grant and only one is deficient, staff may not want to allocate limited resources to help one group. If all applications filed are deficient, the Region first should determine whether there are sufficient resources available to assist all groups in upgrading their applications. If none of the applications for a site's grant are able to meet the responsibility requirements, all applicants should be given an additional 30 days to revise their applications, correct any deficiencies, and re-submit the application for a second review. In all cases, the TAG Project Officer should notify a group, in writing, if the application review determines that a group cannot meet the

responsibility requirements, and specify the reasons for rejection of the application. All applicants have the right to appeal EPA's decision.

5.4 Ineligible Activities

In reviewing the Scope of Services in Part IV of the application, reviewers must verify that all proposed activities for the technical advisor are eligible according to IFR Section 35.4060. Technical assistance grants are to be used to obtain assistance in interpreting information with regard to the nature of a hazard; RI/FS; record of decision; remedial design, selection, and construction of the remedial action; operation and maintenance; or removal action at an NPL site or a site proposed for listing where a response action is underway. As outlined in Section 35.4055 of the IFR, the following activities are ineligible:

- o litigation or underwriting legal actions such as paying for attorney's fees or paying for the time of the technical advisor to assist an attorney in preparing a legal action or preparing for and serving as an expert witness at any legal proceeding;

- o political activity and lobbying in accordance with 40 CFR Part 30.601 which incorporates Office of Management and Budget (OMB) Circular A-122 "Cost Principles for Non-Profit Organizations";

- o other activities inconsistent with the cost principles stated in OMB circular A-122;

- o tuition or other expenses for recipient group members or technical advisors to attend training seminars or courses;

- o any activities or expenditures for recipient group members' travel related to the project;

- o generation of new primary data such as well drilling and testing, including split sampling; and

- o reopening final Agency decisions or entering into disputes with the Agency.

The TAG Project Officer and other staff responsible for grant oversight must continue to consider these criteria for ineligible activities and the cost principles in OMB Circular A-122 whenever reviewing requests for payment and project progress reports throughout the life of the grant. Grant recipients should be notified promptly if funding for a proposed activity will be disallowed.

5.5 Matching Requirement

The IFR requires that each grantee contribute at least 35 percent of the total project costs. A citizens' group wishing to obtain the maximum $50,000 grant from EPA must contribute at least $26,923 in cash or in-kind contributions. In this case, $50,000 of Federal funds combined with a 35 percent match of $26,923 would yield $76,923 in project funds. Unless a waiver of the 35 percent match is granted in this example, the Federal government is limited to providing 65 percent of the project costs up to a maximum of $50,000 per NPL site.

The recipient must meet this matching funds requirement during each budget period. Grant recipients will have to meet the match requirement when they submit reimbursement requests for grant-related costs. For each reimbursement claim, the recipient must show that the matching funds for that period is at least 35 percent. If the recipient raises more than the 35 percent match in a given reimbursement period, the recipient may carry the excess amount greater than 35 percent to the next reimbursement period. While applicants will not be required to have matching funds in hand at the beginning of each budget period, they must have a plan for raising the funds or providing in-kind contributions. The budget provided in the Scope of Services, as well as all requests for reimbursement forms, should indicate the matching funds provided by the group.

Without specific statutory authority, technical assistance grant recipients may not use other Federal funds to meet the matching funds requirement. In addition, grant recipients may not apply the same funds used to meet the technical assistance grant match requirement to other Federal program matching requirements. However, recipients may use funds from a State, municipality, or PRP to meet the matching funds requirement as long as the funds are given strictly for this purpose with "no strings attached." Furthermore, except in the case of incorporation costs, recipients may not be reimbursed for or count the costs of goods or services purchased prior to the award of the grant toward the match requirement. Because incorporation is required of all technical assistance grant recipients before a grant can be awarded, necessary and reasonable costs associated with incorporation, if incurred for the sole and specific purpose of this grant program, may be either charged to the grant or count toward the matching funds requirement. Generally, necessary and reasonable costs for incorporation should not exceed $500. Groups will have to document for their files how they arrived at their request.

In-Kind Contributions

In-kind contributions by technical assistance grant recipients may be used to meet the matching funds requirement, thereby reducing the amount of cash the group must raise. In-kind contributions are non-cash donations by grant recipients and non-Federal public or private third parties that are necessary for project completion. In-kind contributions must be used exclusively for a single project (40 CFR Section 30.307). Examples include:

- o use of facilities (i.e., office space, meeting rooms);

- o equipment (i.e., computers or office machines, audio-visual teaching aids), as long as it was not originally donated to the recipient by the U.S. Government or purchased with Federal funds;

- o materials (i.e., office supplies, maintenance, and newspaper copy for advertising for an advisor);

- o other direct costs (i.e., telephone calls, photocopying); and

- o services rendered (i.e., accounting, secretarial, management, or scientific research) -- both skilled and unskilled labor can be counted.

Citizens' groups should be strongly encouraged to meet these types of costs with in-kind contributions and to use the limited technical assistance grant monies for procuring technical advisor services. The use of grant monies for equipment purchases should be especially discouraged. It is unlikely that any large equipment purchases could be justified as an appropriate use of the limited technical assistance grant monies. In general, such purchases should be discouraged, but may be allowed if the recipient has justified the purchases to EPA's satisfaction and they are specifically authorized in the recipient's assistance agreement.

In determining whether certain in-kind contributions are allowable, reviewers should use guidelines provided in the Assistance Administration Manual and OMB Circular A-122, "Cost Principles for Non-Profit Organizations."

In-kind contributions must be included in an approved budget, and the basis for deriving their value must be documented in the recipients' records with receipts, timesheets, and memoranda. Volunteer services can be counted as an in-kind contribution if such services are integral to technical assistance grant activities. The value of the work, for matching fund purposes, is the price the group would pay to have the work done in the private sector in that geographic area. Volunteers must keep timesheets. Groups that benefit from the services of both volunteers and paid employees should use the same recordkeeping methods for both. These costs cannot include profit and overhead.

The value of nonexpendable personal property (i.e., a slide projector, computer, etc.) can be counted as an in-kind contribution, but this credit may not exceed the item's fair market value.* When equipment is loaned to the technical assistance grant recipient, the amount credited to the matching funds requirement may not exceed the item's fair rental value. The value must be pro-rated according to the degree to which it is dedicated to technical assistance grant activities. For instance, if only half of an office is used full-time by a technical

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* Non-expendable personal property has a useful life of at least two years and an acquisition cost of $500 or more.

advisor, a maximum of half of the office's fair rental value may be counted as an in-kind contribution. If the technical advisor uses half of an office half of the time for technical assistance activities, then only one fourth of the office's fair rental value may be counted as an in-kind contribution. All costs must be necessary, reasonable, allowable, allocable, and directly tied to technical assistance grant activities in order to be credited toward the matching funds requirement.

5.6 Waivers

Waivers of both the matching funds requirement and the $50,000 per site limit on grants are allowed, but only under very limited circumstances. The criteria for granting waivers are outlined below.

Thirty-Five Percent Match Waivers

Because in-kind contributions can be counted toward the matching funds requirement, thereby reducing the monetary burden on technical assistance grant recipients, waivers will be granted only in exceptional cases. To determine if a group qualifies for a full or partial waiver of the matching funds, the officer reviewing the request must determine whether or not the group satisfies the following requirements:

- The group must demonstrate, in writing, that providing a full "match" would be a financial hardship for the group based on measures such as per capita income, median household income, or the area's unemployment rate;

- The group must explain, in writing, how it made a good faith effort at raising the "match" or obtaining in-kind services including the steps taken and why these attempts were unsuccessful; and

- The group must show, in writing, that the waiver is necessary to facilitate public participation during selection of the remedial action.

The first step the TAG Project Officer should take is to evaluate the arguments submitted by the citizens' group in support of its claim of financial hardship. Financial need may be demonstrated by such measures as below average per capita income, below average median household income, or a high unemployment rate in the community from which a citizens' group is applying for a technical assistance grant. It is important that reviewers examine these economic indicators for the community (not just for the applicant group) in order to gain an accurate assessment of the potential difficulty involved with raising the "match" or obtaining in-kind services from the community.

Next, the TAG Project Officer reviewing a request for a waiver should ensure that the citizens' group has explained that it has exhausted all other possibilities for raising their matching funds including the use of in-kind

contributions to raise the "match," and that the results of these efforts are fully explained. Examples of circumstances which could be used to support the claim that a group has exhausted all such possibilities include cases in which:

- o the group has been unable to locate an accountant or other persons with needed skills who would be willing to donate their time and services; or

- o there are persons available who are willing to donate skills, supplies, or meeting space, however, the donation of these goods and services is not large enough to constitute 35 percent of total project costs throughout the life of the project or would exceed the 15 percent cap on administrative costs (e.g., the community is so small that the cost of producing and distributing a newsletter does not constitute a significant in-kind contribution).

The third criterion for approving a cost-sharing waiver -- the necessity of the waiver for public input during selection of a remedial action -- is more difficult to quantify. Reviewers should evaluate the validity of this need by rating this criterion in two steps:

- o Has the waiver been filed prior to or during selection of a remedial action?

  Waivers cannot be granted once the record of decision has been issued at the last operable unit at the site.

- o Is the waiver necessary to facilitate public participation in site-related activities?

  Applicants should state explicitly what impact a waiver would have on the form or quality of public participation. Supportive statements should be provided to substantiate the need for a cost-share waiver. For example, groups should be encouraged to provide written statements attesting that community outreach efforts would be substantially diminished if the waiver were denied and the Agency reduced its funding in proportion to the citizens' group's actual contribution.

Once the Region has reviewed the waiver request, reviewers should evaluate how much the group <u>could</u> contribute. It is EPA's policy not to grant a full waiver unless it is absolutely necessary. Regional staff, therefore, should try to encourage groups seeking waivers to obtain -- at a minimum -- the 15 percent cap on administrative costs as their in-kind contribution.

In the event that there is more than one technical assistance grant applicant for a given site, but only one of the applicants requests a matching funds

requirement waiver, reviewers should not use the request for a waiver as a reason to deny the grant. The most affected applicant should receive priority in receiving technical assistance grant awards, even if this requires a waiver of the "match."

Determining the Federal Share

Ordinarily, citizens' groups who seek a waiver should do so in the initial grant application. If the request is denied during application review, the applicant must be given the option to revise the Scope of Services and resubmit the application. Any changes to the original grant agreement resulting from a waiver requested and approved after an initial award has been made will constitute a significant change and therefore will require a formal amendment, according to Section 35.4085(c) of the IFR and 40 CFR Part 30 Subpart G. If the technical assistance grant recipient cannot meet the "match" and a waiver is not approved, the Agency must reduce its contribution proportionately since **the Agency cannot award more than 65 percent of the total adjusted project costs if the matching requirement waiver is denied**. As illustrated in the earlier example, a citizens' group wishing to obtain the maximum $50,000 grant from EPA must contribute $26,923 in cash or in-kind contributions for a total of $76,923 in project funds. However, if the citizens' group is unable to raise $26,923 in matching funds and raises only $5,000, then the EPA funding would drop from $50,000 to $9,286. This is because $5,000 represents 35 percent of the total project cost. The EPA figure must be adjusted to represent 65 percent of the total project cost, which in this example, becomes $14,286.

In the event that a waiver is granted for any portion of the recipient's "match," EPA must determine whether or not the Federal share of the grant will be increased. **If a matching requirement waiver is granted, EPA is not confined to a maximum 65 percent contribution** -- the Federal allocation is only constrained by a maximum contribution of $50,000, allowed under Section 117(e) of CERCLA, as amended. Therefore, EPA may elect to increase the Federal contribution by the amount of the waiver, providing the Federal share would not exceed the maximum contribution of $50,000.

For example, if EPA received a grant request for $20,000 with a "match" of $10,769 and EPA granted a waiver of $2,000, the recipient's matching share would be $8,769. EPA may decide to increase the Federal contribution by $2,000 (from $20,000 to $22,000) and, in effect, keep the total amount of the project budget ($30,769) unchanged. In this case, the required grant agreement would reduce the recipient group's matching share by $2,000 (from $10,769 to $8,769) and increase the Federal contribution by the amount of the waiver. This would be done only in cases where EPA determines that a reduction in the total project budget would inhibit the effectiveness of planned technical assistance activities at the site. On the other hand, EPA may grant a waiver but decide not to increase the amount of the Federal contribution. In this case, using the example above, the grant agreement would indicate a $2,000 reduction in the recipient's matching share with no change in the amount of the Federal contribution.

Waivers of the $50,000 Limit on Grants

Due to the limited funds available to implement the broad mandate of CERCLA, as amended, EPA has determined that waivers of the $50,000 limit will be issued only where one grant is being requested for assistance at several NPL sites in close proximity to one another.* Even where such a waiver is granted, no more than $50,000 may be spent at any one site. The total award may not exceed the maximum allowable expenditures for all of the sites (e.g., 3 sites x $50,000 = maximum grant of $150,000).

There may be cases where EPA receives an application from one group for multiple sites along with another competing application from a second group for only one of the multiple sites. In this circumstance, reviewers should break out the portion of the multiple site application that relates to the single site application for the purposes of comparatively evaluating the single site application. This would allow the applications relevant to the single site to be evaluated similarly to when there are two competing applications at the same site.

Approval Officials for Waivers

The Regional Administrators, or their designee (e.g., Division Director), must approve waivers of the 35 percent match and the $50,000 ceiling for multi-site applications. All other $50,000 waiver requests must be approved by the Director of the Office of Emergency and Remedial Response. To help Headquarters track waiver requests for multi-site applications, the Regions should submit to the Headquarters Technical Assistance Grant Project Manager (WH-548E) biannual reports of the receipt and award of multi-site applications. These reports should be submitted on June 30 and December 31 of each year.

5.7 Availability of Scores

The actual scores the group receives and the individual EPA scoring sheets are part of the internal agency deliberative process (see 5 U.S.C. Section 552, Subpart B, Subpart 5). Therefore, they are not available to the public under the Freedom of Information Act. The Region should make every effort to explain to each applicant why their application was rejected. If no award was made, an applicant then may rework the application and re-submit it for consideration.

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* "Close proximity" can mean:

- o geographic proximity of sites;
- o the sites impact the same aquifer or watershed; or
- o the local citizens' groups that coalesce to obtain a grant have a history of involvement with all the sites.

6. GENERAL PROCUREMENT REQUIREMENTS

6.1 Procurement Under Grant Agreements

Recipients of technical assistance grants must abide by the applicable provisions of 40 CFR Part 33, "Procurement Under Assistance Agreements." In addition to the procedures outlined in the Assistance Administration Manual, TAG Project Officers should be familiar with Chapter 4 of The Citizens' Guidance Manual for the Technical Assistance Grant Program. Additionally, for technical assistance grant recipients, the small purchase procurement method limitation (Sections 33.305, 33.310, and 33.315) has been raised to $25,000. This exception should expedite the procurement of technical advisory services.

6.2 Subagreements with Technical Advisors

Grant recipients will contract with a technical advisor using a subagreement. Grant recipients are required under Section 35.4090 of the IFR to provide EPA with an opportunity to review any proposed subagreement with a technical advisor before the contract is awarded. The purpose of this review is not to approve the selected technical advisor but to ensure compliance with EPA's procurement regulations and to avoid potential problems in the future that might otherwise arise without such a review. If the Agency does not exercise its authority to review the subagreement, the recipient may award a subagreement without EPA's formal review.

According to 40 CFR Part 33.1015, all subagreements with technical advisors must include, at a minimum, the following elements:

- o nature, scope, and extent of work to be performed;
- o timeframe for performance;
- o total cost of the subagreement; and
- o payment provisions.

Every subagreement also must contain the clauses specified in Subpart F of 40 CFR Part 33. The subagreement must include the appropriate model clauses contained in 40 CFR Section 33.1030 or equivalent language covering the following items:

- o Supersession. This clause states that the clauses required by 40 CFR Part 33.1030 supersede any conflicting provisions of the subagreement.
- o Privity of subagreement. This clause means that EPA is not a party to the subagreement.

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- Termination. This clause states that failure to fulfill the obligations of the subagreement, or for the convenience of the grantee, may result in the termination of the subagreement and specifies the procedures for how the subagreement would be terminated.

- Remedies (resolution of claims, disputes, etc.). This clause means that all disputes which cannot be resolved will be settled by arbitration, if both parties agree, or in a court with jurisdiction in the State where the recipient resides.

- Audit, access to records. This clause should outline the records that must be maintained and should state that they are subject to audit.

- Covenant against contingent fees. This clause prohibits a technical advisor from paying an agency or individual to solicit or secure the subagreement.

- Contractor gratuities. This clause prohibits a technical advisor from providing gratuities in return for favorable consideration or award of the subagreement.

- Final payment. This clause outlines the conditions for final payment of the technical advisor and what acceptance of the final payment means.

- Responsibilities of contractor (including a conflict of interest disclaimer). This clause should specify the responsibilities of the technical advisor for conduct under the subagreement.

An effective subagreement will clearly specify: the duties to be performed by the contractor and the period in which these tasks will be performed; options for extending or reviewing the subagreement; the method, schedule and conditions of payment -- including invoicing procedures; and, as related to Section 35.4100 of the IFR, requirements for retaining and disposing of all records generated under the subagreement. A sample contract is shown in Appendix A of The Citizens' Guidance Manual for the Technical Assistance Grant Program.

Labor-Hour Subagreements

The Citizens' Guidance Manual for the Technical Assistance Grant Program recommends that grant recipients use a labor-hour subagreement whenever possible because this type of subagreement will be the most appropriate type of subagreement in most cases. Under labor-hour subagreements, payment is made on the basis of a specified fixed loaded hourly labor rate. The hourly rate includes wages, overhead, general and administrative expenses, and profit.

In reviewing this type of subagreement, the TAG Project Officer determines if the:

1. Scope of Services is consistent with the Scope of Services in the grant agreement;

2. Rates established for the services to be provided are reasonable; and

3. The maximum amount to be obligated for the budget period and spent for the technical advisor has been established.

Because the labor-hour subagreement lacks any incentive for cost control by the technical advisor, the grant recipient must maintain constant oversight of the technical advisor's work.

Other Types of Subagreements

Grant recipients also may use other types of subagreements such as cost reimbursement, fixed price, or per diem. Chapter 21 of the Assistance Administration Manual contains guidance for reviewing these types of subagreements.

Conflict of Interest and Disclosure Requirements

In addition to the conflict of interest provisions in 40 CFR Parts 30 and 33, the IFR requires technical advisors to disclose all past and anticipated working relationships (including services related to any proposed or pending litigation) with PRPs for the subject site, its parent company, subsidiaries, affiliates, subcontractors, and current clients, attorneys, and agents. In order for technical advisors to comply with conflict of interest requirements, they will need to obtain the names of the PRPs at the Superfund site in question. Current EPA policy requires a Freedom of Information Act (FOIA) request to obtain this information.

The technical advisors will have to present a disclosure statement to the applicant prior to the signing of any subagreement. The technical advisors must certify that, to the best of their knowledge and belief, they have disclosed such information or no information exists. The technical advisors also must submit a statement that they shall disclose immediately any such information discovered after submission of its proposal or after award. The grant recipient should supply a copy of the disclosure statement to the TAG Project Officer.

In an effort to further reduce any conflict of interest problems, Federal or State contractors and subcontractors will not be eligible to apply for positions as technical advisors to citizens' groups at the same NPL site where the contractors are involved in cleanup.

7. BUDGET AND FINANCE

7.1 Internal Budgeting

The SCAP process was developed to facilitate accurate fiscal budgeting for actions at NPL sites throughout the country. A SCAP proposal is submitted every June for the following fiscal year and includes individual quarterly estimates of the level of spending to occur at every NPL site. Each of these quarterly estimates is categorized by the number of dollars allocated to each phase of a site project. The SCAP is updated on a quarterly basis during which EPA Headquarters and Regional staff review the figures to produce an accurate, workable budget.

The addition of the Technical Assistance Grant Program to EPA's community relations efforts has a direct impact on the formulation of the annual SCAP reports. Technical assistance grant funds will constitute an additional budget category to be included in quarterly expenditure projections. The SCAP information is available to the public through a FOIA request.

Uncertainty about the number, size, and site location of technical assistance grant awards complicates this process. Regional Offices should anticipate, as accurately as possible, the sites in their jurisdictions at which citizens' groups are likely to request technical assistance grant awards. Based on the complexity and stage of cleanup at the site, Regional staff must estimate the technical assistance grant amount most appropriate for a particular site. In general, it is advisable to assume a $50,000 grant award for the life of a site's remediation project. Obviously, a lesser award may be appropriate for some sites if work is underway and nearly complete; thus, the amount of the award should be evaluated on a site-specific basis.

SCAP requests should include anticipated technical assistance grant funding for all eligible sites including EPA-lead, State-lead, PRP-lead, and Federal facility sites. In the event that unanticipated technical assistance grant awards are needed, additional SCAP requests may be submitted on a quarterly basis. Although EPA Headquarters will re-evaluate all SCAP requests on a quarterly basis, it is advisable to realistically plan for such budgeting needs during the first request of the fiscal year.

Technical assistance grant funds will be requested and allocated on a one-time basis for the life of the remediation project at a site. Once the grant is awarded, the grant recipient will draw down funds on a reimbursement basis against the grant amount in accordance with the grant conditions.

7.2 Commitment and Obligation of Funds

Technical assistance grant funds will be allocated to Regions under the "Other Remedial" Superfund allowance. Commitment notices are prepared by the Review Team and forwarded with the funding recommendation to the AAU. The

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AAU then forwards the package to the FMO who will assign accounting data and enter the commitment into the financial management sysem. When assigning accounting data, activity code "Z" should be used in the account number as well as the Site/Spill ID. The commitment must be made prior to signature by the Award Official.

Obligation occurs once the Award Official has signed the grant agreement. After signature, the AAU forwards the package to the FMO who enters the obligation into the financial management system. This must be done prior to sending the grant agreement to the applicant for signature. Once recorded as an obligation, the money is reserved for outlays to the recipient as required.

7.3 Payment Procedures

Under the Technical Assistance Grant Program, the method of payment will be reimbursement. Award Officials must specify this form of payment in the grant award package. Grant recipients will submit a Form SF 270 on at least a quarterly basis to request payment from the designated Regional FMO or AAU. This form can be submitted monthly if expenses exceed $500. For the initial reporting periods, Regions may wish to request submittal of further documentation of costs to ensure compliance with regulatory requirements. Normally, such documentation must be kept in the grant recipient's file throughout the life of the project.

The Region will review the request for reimbursement to determine compliance with the terms of the subagreement (e.g., the 35 percent matching funds requirement, and the valid budget period). The FMO then will establish an accounts payable in the financial management system and send the payment request within two business days of receipt to the TAG Project Officer for review and concurrence, as outlined in Chapter 33 of the Assistance Administration Manual.

Following receipt of the payment request, the TAG Project Officer should certify and approve the request for payment if the project is progressing satisfactorily. The TAG Project Officer shall determine if:

- the technical advisor is performing the tasks as outlined in the group's Scope of Services;
- the activities proposed for reimbursement are eligible according to IFR Section 35.4060; and
- the recipient has adhered to the grant agreement conditions including all Federal reporting requirements.

Once the TAG Project Officer approves a payment request, a copy will be forwarded to the appropriate office in the Region, usually the FMO. The FMO then will send the payment to the recipient. If the request is not approved, the

TAG Project Officer, with assistance from the AAU will determine the appropriate action.

The Agency should strive to reimburse the recipient within 10 to 20 days of receipt and approval of the eligible costs incurred, thus enabling the recipients to avoid paying any out-of-pocket costs. Normally, this should be possible. States administering the Technical Assistance Grant Program also should attempt to meet this timetable.

7.4 Cost-recovery

Cost-recovery is an effort by EPA to recover all costs related to the cleanup of a Superfund site from any individual(s) or company(ies) (such as owners, operators, transporters, or generators) potentially responsible for, or contributing to, contamination problems at the site.

Technical assistance grant funds are a necessary cost of response activities incurred, that are consistent with the NCP, and therefore fully recoverable pursuant to Section 107(a) of CERCLA, as amended. Generally, EPA staff should follow the EPA memorandum entitled, "Procedures for Documenting Costs for CERCLA Section 107 Actions," issued January 30, 1985 by the Director, Office of Waste Programs Enforcement (OWPE). OWPE is revising the procedures manual and will include more specific information about documenting costs related to technical assistance grants.

Record Retention

Grant recipients are required to document all costs and expenditures and make these records available to EPA or States upon request. In addition, all records must be maintained by the recipient and the technical advisor for three years, as outlined in Section 35.4100 of the IFR. These records must be retained for three years from the date of the final Financial Status Report, or until any audits, litigation, cost-recovery, and/or disputes initiated before the end of the three-year retention period are settled, whichever is longer. After three years, if the recipient intends to dispose of the records, EPA must give prior written approval before any records are destroyed after the conclusion of the record retention period. The recipient also must require their technical advisor to keep similar records as detailed in 40 CFR 35.4100(b)(1)(2). After the three-year record retention period, EPA must give approval before a recipient may give the technical advisor permission to destroy any records.

7.5 Recipient Reporting

Each grant recipient must submit a quarterly progress report to their TAG Project Officer 45 days after the end of each calendar quarter. This requirement must be specified in the grant agreement. Progress reports must describe fully the progress achieved in relation to the approved schedule and the milestones

provided in the group's Scope of Services. Chapter 37 of the Assistance Administration Manual and Chapter 5 of The Citizens' Guidance Manual for the Technical Assistance Grant Program discuss the requirements for progress reports in detail.

8. SPECIAL CIRCUMSTANCES

Circumstances may arise that create special challenges in Agency coordination and management of grants. This chapter discusses several such cases including:

- o situations where NPL sites overlap more than one Region and/or State;
- o Federal facilities; and
- o delisting sites from the NPL.

8.1 Sites Overlapping More Than One Region or State

The procedures that a technical assistance grant applicant and Agency reviewers should follow at NPL sites spanning more than one State and/or EPA Region parallel the procedures of the technical remediation program at the site. In this case, the lead Regional or State office is the one in whose jurisdiction the majority of the site lies.* Citizens' groups should file their technical assistance grant applications with this office. However, in the event that the State office is not administering the Technical Assistance Grant Program then citizens' groups will be directed to file applications with the EPA Regional office.

Multi-jurisdictional sites present more complications than sites that are located in just one State and Region. It is entirely possible that citizens' groups from a State or Region other than that of the lead office will view themselves as being most affected by site contamination, despite the fact that the majority of the site lies in another jurisdiction. If citizens' groups from more than one State and/or Region are interested in a grant for the same site, the existence of a political border between them may lessen their interest in consolidating applications. As mentioned previously, the Agency may wish to offer such groups the services of a facilitator to assist the groups in exploring the pros and cons of consolidation.

Community outreach efforts (i.e., public notices, neighborhood interviews, etc.) by EPA should be more vigorous than ever to ensure that contact is made with communities in both States and/or Regions. EPA officials must be extremely scrupulous when evaluating grant applicants competing for a grant at a multi-jurisdictional site to avoid any appearance of bias towards applicants residing in the lead office's jurisdiction.

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* For the purposes of this particular section, lead office refers to the Regional or State office that oversees the technical site cleanup.

In addition to the expanded community relations efforts described above, lead office personnel at sites spanning two or more political jurisdictions should keep personnel of other affected States and Regions informed of technical assistance grant developments, including but not limited to: receipt of grant applications, the groups' decision on consolidation, award of the grant, and subagreement details. Affected Regional and State staff should be invited to all pertinent meetings. Offices other than the lead office, however, normally will have fewer resources committed to site activities.

8.2 Federal Facilities

Technical assistance grants may be awarded to groups of eligible individuals affected by a release or threatened release at a Federal facility. The authority of Section 117(e) vested in the President to award technical assistance grants was delegated to EPA by Executive Order 12580. However, that order did not authorize EPA to re-delegate that authority to any other executive agency or department without the consent of the President.

Therefore, EPA will select the recipient and administer the technical assistance grants at Federal facilities. EPA will fund technical assistance grants at Federal facilities that are listed on the SCAP and will seek reimbursement. Memoranda of Understanding detailing the reimbursement process will be signed with each Federal agency.

The Federal facility still has an important role to play. EPA will notify the Federal facility when it has received a letter of intent. The Federal facility has two options at this point: (1) provide the Regional Office with site mailing lists, including local newspapers, as well as information on the various groups in the community so that EPA can begin the notification process; or (2) conduct the notification in coordination with EPA. EPA will review reimbursement requests, financial statements, and progress reports for consistency with the Scope of Services. The Agency may need to consult with the Federal facility to verify the information in these reports. As part of its ongoing community relations activities, the Federal facilities will need to provide site information and documents to and interact with grant recipients and their technical advisors.

8.3 Delisting Sites from the NPL

Special steps must be taken when a site at which a technical assistance grant has been awarded is deleted from the NPL. Because sites are only eligible for technical assistance grant funding if listed on the NPL, the Award Official must issue a stop-work order under 40 CFR Section 30.901 as soon as delisting is approved if the technical assistance grant has not expired. Grant recipients may use the remaining funds only to fulfill outstanding contractual obligations to technical advisors as specified in subagreements, and must reduce outstanding commitments if possible. Uncommitted funds must be reported on the final Financial Status Report.

In issuing stop-work orders, Award Officials should follow procedures specified in the EPA Assistance Administration Manual, Chapter 39, Section 8.

Concurrently with the issuance of a stop-work order, termination proceedings must be initiated since stop-work orders are valid for a maximum of only 45 days. Termination requires a Notice of Intent to Terminate, a Notice of Termination, and a Termination Settlement.

The TAG Project Officer should communicate the consequences of site delisting to technical assistance grant recipients at the time of award if delisting is probable in the near future. Otherwise, groups should be notified well in advance of delisting so they can prepare for an orderly termination of their contract and grant. If delisting occurs, the TAG Project Officer should contact the grantee, in writing, at the earliest possible date to advise the group of required forms and procedures should a final audit be necessary, as outlined in Section 35.4100 of the IFR.

9. ALTERNATIVE ADMINISTRATIVE AND PROGRAMMATIC APPROACHES

9.1 Additional Administrative Resources

Regional EPA offices are encouraged to take the initiative to identify and seek additional administrative resources, such as contractor support, for assistance in implementing the Technical Assistance Grant Program. EPA Headquarters currently is examining the long-term implications of implementing this program in view of resources currently available to the Agency. Nine grant or contract options have been explored as possible mechanisms for obtaining support to implement the program. Research to date indicates that, of these nine, one appears to be the most viable option for this purpose: the Senior Environmental Employees (SEE) Program. This program is described below as a potential option Regions may wish to consider for assistance in administering the program.

The Senior Environmental Employees (SEE) Program

The SEE Program, operated by the EPA Office of Research and Development since 1976, supplies labor to EPA's program offices through grants to 64 non-profit associations of the elderly. The SEE Program depends exclusively on grants and cooperative agreements, as opposed to contracts. The senior citizens participating are affiliated with one or more of the 64 associations, including the Association for the Advancement of Retired People, the National Urban League, the National Center on Black Aged, the National Council of Senior Citizens, the National Council on Aging, and the National Association of Hispanic Elderly.

SEE has an established working relationship with EPA and has produced very satisfying results for the Agency in past projects, such as the Asbestos in Schools Program and the Solid Waste Land Dumping Project. EPA's continued use of the SEE program for Superfund activities was recently supported by the Congress. A September 1987 Senate Committee Report included language pertaining to the SEE program. The Committee explicitly confirmed its support of the SEE program and stated that it "strongly urges EPA to make greater use of SEE enrollees for ... Superfund activities."

To arrange for SEE support, EPA program offices submit requests to the Office of Research and Development (ORD). ORD normally decides which of the SEE affiliates to offer the grant to, solicits a budget from the potential grantee, and forwards all of these documents to the EPA Grants Administration Division at Headquarters for award approval. After the grant is awarded ORD assumes responsibility for providing the necessary funds for SEE salaries and travel.

9.2 Ciba-Geigy: An Alternative to the Technical Assistance Grant Program

There is an alternative method of obtaining technical assistance funding for citizens' groups aside from EPA's Technical Assistance Grant Program. PRPs occasionally have provided citizens' groups with technical assistance funding, directly. This direct funding arrangement between PRPs and citizens' groups has

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occurred at both the Ciba-Geigy Corporation site in Ocean County, New Jersey and the Christiana site in Puerto Rico. In addition, negotiations to establish similar funding arrangements currently are underway at several other NPL sites.

Direct PRP funding to citizens' groups for technical assistance may provide an alternative to EPA technical assistance grants, where the parties involved can negotiate mutually agreeable terms. Direct negotiations among PRPs and citizens' groups regarding technical assistance funding may reduce the administrative burden for both the Agency and citizens' groups. The Ciba-Geigy site exemplifies this alternative funding mechanism.

To illustrate how such a funding mechanism might be established, the following synopsis of the arrangements at the Ciba-Geigy site has been provided. It should be noted that the Ciba-Geigy agreement specifies that the recipient group cannot apply for an EPA technical assistance grant to supplement corporate funding. However, a citizens' group that is not a party to a Ciba-Geigy-type agreement would be eligible to apply for an EPA technical assistance grant. In addition, it should be noted that without such an agreement between the PRP and citizens' groups, the citizens' group would be eligible to apply for an EPA technical assistance grant.

Because Ciba-Geigy is the sole PRP for the site and the technical assistance grants will be cost recoverable, the company, in consultation with EPA, agreed to provide technical assistance funding to the Ocean County Citizens for Clean Water (OCCCW) without waiting for Federal regulations to be promulgated. OCCCW was actively involved with the site and planned to continue to participate in site-related activities.

In July of 1987, Ciba-Geigy's Toms River Plant Manager and the President of the OCCCW signed a twelve-page agreement in which the Ciba-Geigy Corporation agreed to deposit a $50,000 grant into a segregated interest-bearing account for the benefit of OCCCW. OCCCW agreed to manage the grant monies. OCCCW members were characterized in the agreement as a group of "individuals who may be affected by a release or threatened release" from the plant. The terms of the agreement, negotiated under the auspices of EPA Region II during the previous spring, stated that both the principal and interest of the grant are to be used for providing technical assistance to OCCCW. The group further agreed that it would not apply for an EPA technical assistance grant, unless EPA made renewal funds available to groups that had received the original $50,000 grants. In addition, Ciba-Geigy and OCCCW agreed on policies for site access, information disclosure, dispute resolution procedures, qualifications for the technical consultant, accounting procedures, and specific provisions to be included in the subagreement with a consultant. OCCCW currently is procuring the services of technical experts to advise the group on the progress of the Superfund investigation at the Ciba-Geigy site.

The implementation of this agreement is too recent to evaluate its effectiveness. However, such direct funding mechanisms for technical assistance

to citizens' groups at Superfund sites appear to hold promise for delivering funds to a community in a timely manner, with a minimum amount of paperwork and recordkeeping.

APPENDIX A

SAMPLE PUBLIC NOTIFICATION LETTERS

1. Sample Acknowledgement Letter

(For first letter of intent when site work is scheduled to begin or is underway.)

2. Sample Deferral Letter

(For sites where work is not scheduled to begin within a year.)

3. Sample Follow-Up Letter

(For sites where a deferral letter has already been sent by EPA.)

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1. SAMPLE ACKNOWLEDGEMENT LETTER

For first letter of intent when site work is scheduled to begin or is underway.

Ms. Pat Jones
Executive Director
Woodtown Landfill Coalition
Main Street
Woodtown, Connecticut 06798

Dear Ms. Jones:

The U.S. Environmental Protection Agency (EPA) received your letter dated June 9, 1990 expressing intent to file an application for a technical assistance grant at the Woodtown Landfill site.

A remedial investigation/feasibility study (RI/FS) is scheduled to begin at the Woodtown Landfill site in approximately six months. As required by Federal regulations, EPA will publish a public notice in the Woodtown Journal next week announcing the Woodtown Landfill Coalition's intent to file a formal grant application for the single, available technical assistance grant for the Woodtown Landfill site. In addition, EPA is mailing a letter to all individuals on the site mailing list. A copy of the public notice will be sent to you upon publication. The public notice and mailing are intended to encourage other interested community groups to contact your group for the purpose of consolidating and filing a single, joint application.

You will have 30 days from the date of the public notice to form a coalition and file a single grant application. If agreement cannot be reached, all interested applicants will have an additional 30 days to file separate grant applications. EPA will then review all applications received and choose a single recipient.

If EPA does not receive other letters of intent within 30 days of publication of the public notice, you will be notified and asked to file a formal grant application. Please note that your State does require intergovernmental review of all grant applications under this program.

Enclosed for your information is a grant application package including The Citizens' Guidance Manual for the Technical Assistance Grant Program. This material will help you to understand the process and to file your grant application at the appropriate time. EPA appreciates your interest in the Technical Assistance Grant Program. Please contact me at (617) XXX-XXXX if you have any questions about the technical assistance grant for the Woodtown Landfill site.

Sincerely yours,

Ann Parker
EPA Project Officer
Region I

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2. SAMPLE DEFERRAL LETTER

For sites where work is not
scheduled to begin within a year.

Ms. Pat Jones
Executive Director
Woodtown Landfill Coalition
Main Street
Woodtown, Connecticut 06798

Dear Ms. Jones:

The U.S. Environmental Protection Agency (EPA) received your letter dated June 9, 1990 expressing intent to file an application for a technical assistance grant at the Woodtown Landfill site.

At this time, no site work is scheduled to begin at the Woodtown Landfill site for at least one year. According to Federal Regulations (40 CFR 35.4050), an award of a technical assistance grant cannot be made until funds to begin response activities at a site (i.e., a remedial investigation/feasibility study, or RI/FS) have been set aside. We will contact you when it is the appropriate time to file a grant application.

Enclosed for your information is a grant application package including The Citizens' Guidance Manual for the Technical Assistance Grant Program. This material will help you understand the grant process and help you with filing your grant application at the appropriate time. If you have any questions about the Technical Assistance Grant Program or the status of site work, please contact me or Mr. Walter Smith, the Community Relations Coordinator for the Woodtown Landfill site at (617) XXX-XXXX.

EPA appreciates your interest in this program. If I can be of further assistance, please do not hesitate to contact me at (_____) XXX-XXXX.

Sincerely yours,

Ann Parker
EPA Project Officer
Region I

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3. SAMPLE FOLLOW-UP LETTER
For sites where a deferral letter
has already been sent by EPA.

Ms. Pat Jones
Executive Director
Woodtown Landfill Coalition
Main Street
Woodtown, Connecticut 06798

Dear Ms. Jones:

On June 9, 1990 the Woodtown Landfill Coalition sent a letter of intent expressing interest in submitting an application for a technical assistance grant at the Woodtown Landfill site. At the time, a response action was not scheduled to begin at the site for two years. Site work at the Woodtown Landfill site is now scheduled to begin in approximately six months.

EPA will publish a public notice in the Woodtown Journal next week announcing the Woodtown Landfill Coalition's intent to file a formal grant application for the single, available technical assistance grant for the Woodtown Landfill site. A copy of the public notice will be sent to you. In addition, EPA is mailing a letter to all individuals on the site mailing list.

Only one grant can be awarded at each site. EPA believes that it is beneficial for all groups that may be interested in receiving technical assistance at the Woodtown Landfill site to join together to submit a single application. Therefore, the public notice is intended to encourage other interested community groups to contact your group to consolidate and file a single, joint application.

If EPA does receive other letters of intent, the other interested applicants will be instructed to contact your group to consolidate and file a single, joint application. You will have 30 days from the date of the public notice to form a coalition with other interested citizens and file a single grant application. If agreement cannot be reached, your group and other interested applicants will have an additional 30 days to file separate grant applications. EPA will then review all applications received and choose a single recipient group.

If EPA does not receive other letters of intent within 30 days of publication of the public notice, you will be notified and asked to file a formal grant application. Please note that your State does not require intergovernmental review of all grant applications under this program.

3. SAMPLE FOLLOW-UP LETTER (continued)
For sites where a deferral letter
has already been sent by EPA.

EPA appreciates your interest in the Technical Assistance Grant Program. Please contact me at (_____) XXX-XXXX if you have further questions about the Woodtown Landfill technical assistance grant or about the attached application package.

Sincerely yours,

Ann Parker
EPA Project Officer
Region I

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APPENDIX B

LIST OF ACRONYMS

AAU	--	Assistance Administration Unit
CERCLA	--	Comprehensive Environmental Response, Compensation, and Liability Act of 1980
CFR	--	Code of Federal Regulations
CRC	--	Community Relations Coordinator
DDO	--	Dispute Decision Official
EPA	--	U.S. Environmental Protection Agency
FMO	--	Financial Management Office
FOIA	--	Freedom of Information Act
FS	--	Feasibility Study
GIAB	--	Grants Information and Analysis Branch
GICS	--	Grants Information Control System
IFR	--	Interim Final Rule
NCP	--	National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan)
NPL	--	National Priorities List
OCL	--	Office of Congressional Liaison
OEA	--	Office of External Affairs
OIG	--	Office of Inspector General
OMB	--	Office of Management and Budget
ORC	--	Office of Regional Council
ORD	--	Office of Research and Development
OWPE	--	Office of Waste Programs Enforcement

PRP	--	Potentially Responsible Party
RI	--	Remedial Investigation
RI/FS	--	Remedial Investigation/Feasibility Study
RPM	--	Remedial Project Manager
SBA	--	Small Business Administration
SCAP	--	Superfund Comprehensive Accomplishments Plan
SEE	--	Senior Environmental Employees
SPOC	--	Single Point of Contact
TAG	--	Technical Assistance Grant

APPENDIX C

GLOSSARY

This glossary contains definitions relating to the Technical Assistance Grant Program and grant administration found in either the Interim Final Rule for the Technical Assistance Grant Program or the Assistance Administration Manual.

Affected. Threatened by actual or potential health, safety, or environmental dangers or by an actual or potential decline in property values, arising from a release or a threatened release at a facility listed on the National Priorities List (NPL) under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), or proposed for listing where a response action is underway. Examples of "affected" parties include, but shall not be limited to, individuals who live in areas adjacent to NPL facilities, those who depend on water sources endangered by releases of hazardous substances at the facility, or individuals whose economic interests are directly threatened or harmed.

Allocable Costs. Costs that are assignable or chargeable under an grant agreement to one or more cost objectives in accordance with the relative benefits received or other equitable relationship. A cost is allocable to a project if it is incurred specifically for the project; benefits both that project and other work and can be distributed to them in reasonable proportion to the benefits received; or, is necessary to the overall operation of the recipient although a direct relationship to any particular cost objective cannot be shown.

Allowable Costs. Those project costs that are: eligible, reasonable, necessary, and allocable to the project; permitted by the appropriate Federal cost principles; and approved by EPA in the grant agreement. The primary cost incurred under the Technical Assistance Grant Program will be for paying technical advisors; other allowable costs include the grant management activities of the recipient.

Amendment. (See Formal Amendment.)

Applicant. Any group of individuals that files an application for a technical assistance grant.

Application. A completed formal written request for a technical assistance grant that is submitted to the Agency on EPA Form 5700-33, "State and Local Nonconstruction Program," or to a State on its appropriate form.

Assistance Agreement. The legal instrument EPA uses to transfer money, property, services, or anything of value to a recipient to accomplish a public purpose. It is either a grant, a loan, a grant/loan

combination, or a cooperative agreement and will specify: budget and project periods; the Federal share of eligible project costs; a description of the work to be accomplished; and any special conditions. (See "Grant Agreement.")

Assistance Amount. The amount of EPA funds obligated by the terms of an assistance agreement. (Also see "Obligation.")

Award. The technical assistance grant agreement signed by both EPA and the recipient.

Award Official. The EPA official authorized to sign grant agreements.

Budget. The financial plan for expenditure of all Federal and matching funds (including in-kind contributions) for a technical assistance grant project as proposed by the applicant, negotiated, and approved by the Award Official.

Budget Period. The length of time EPA specifies in a grant agreement during which the recipient may expend or obligate Federal funds. A budget period is a maximum of three years for the Technical Assistance Grant Program. A technical assistance grant may be comprised of several budget periods.

Cash Contribution. Actual non-Federal dollars (or Federal dollars if expressly authorized by statute) that a recipient expended for goods and services and real or personal property used to satisfy match requirements. ("See In-kind Contribution.")

Closeout. The final EPA or State actions to assure satisfactory completion of project work and administrative requirements; the submission of acceptable required final reports; financial settlement; the resolution of any outstanding issues under an assistance agreement; and the notification of the recipient.

Completed Agreement. An assistance agreement for which the project period and final budget period have expired. A completed agreement remains open until final reports are received and approved and any other closeout actions are completed.

Contractor. Any party to whom a recipient awards a subagreement.

Cooperative Agreement. An assistance agreement in which substantial EPA involvement is anticipated during the performance of the project.

Cost Analysis. The review and evaluation of each element of subagreement cost to determine reasonableness, allocability, and allowability.

Debarment. An action taken by the Director, Grants Administration Division, under 40 CFR Part 32 to deny an individual, organization, or unit of government the opportunity to participate in EPA grant agreements or to receive subagreements.

Deviation. Authorization in writing from the Director, Grants Administration Division, granting a recipient an exception from the requirements of a regulatory provision which is not based on a requirement of a statute or Executive Order.

Direct Costs. Those costs that can be identified specifically with a particular objective of the project and are so charged. (Also see "Indirect costs.")

Disputes Decision Official. The individual designated by the Award Official to resolve disputes concerning assistance agreements under 40 CFR Section 30.1200.

Eligible Costs. Those costs in which Federal participation is authorized by applicable statutes. (See "Allowable Costs.")

Expendable Personal Property. Tangible personal property with a useful life of less than two years and/or an acquisition cost of less than $500. (Also see "Nonexpendable Personal Property.")

Extension. The addition of time for filing a grant application or to an approved budget/project period, granted in response to a written and justified request, and documented by a formal amendment of the agreement.

Federal Facility. A facility that is owned or operated by any department, agency, or instrumentality of the United States (including the executive, legislative, and judicial branches of government).

Formal Amendment. A written modification of an assistance agreement signed by both the Award Official and the authorized representative of the recipient.

Grant Agreement. The legal document that transfers money, or anything of value, to a recipient to accomplish the purposes of the technical assistance grant project. It specifies: budget and project periods; the Federal and matching shares of eligible project costs; a description of the work to be accomplished; and any special conditions.

In-kind Contribution. The value of a non-cash contribution used to meet a recipient's matching funds requirement. An in-kind contribution may consist of charges for real property and equipment or the value of goods and services directly benefiting the EPA-funded project. Note that the grant amount may also include an EPA in-kind contribution. (See "Cash Contributions.")

Matching Share. The portion of allowable project costs that a recipient contributes toward completing its project using non-Federal funds or Federal dollars if expressly authorized by statute. The matching funds may include in-kind as well as cash contributions. (Sometimes referred to as "non-Federal share," or "cost-share.")

New Project. A project that EPA is funding for the first time.

Nonexpendable Personal Property. Personal property with a useful life of at least two years and an acquisition cost of $500 or more (40 CFR Section 30.200).

Obligation. The act of committing funds for expenditure. Also, the amount committed.

Obligation (by EPA). The amount of Federal funds which EPA, by the execution of an grant agreement or amendment, legally makes available for obligation and expenditure by a recipient.

Obligation (by a recipient). The amount of funds which a recipient legally earmarks for expenditure through orders placed, payrolls, subagreements awarded, travel authorizations, and other transactions.

Official File. The administrative file for each grant agreement that is established and maintained by the appropriate EPA Assistance Administration Unit and/or State office when provided for under a Cooperative Agreement. (The official technical file and the official financial management file both complement the official administrative file.)

Personal Property. Property other than real property. It may be tangible (having physical existence), such as equipment and supplies, or intangible (having no physical existence), such as patents, inventions, and copyrights.

Potentially Responsible Party. Any individual(s) or company(ies) (such as owners, operators, transporters, or generators) potentially responsible under Sections 106 and 107 of CERCLA, as amended, for the contamination problems at a Superfund site.

Profit. The net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. (Because this definition of profit is based on applicable Federal cost principles, it may vary from many firms' definition of profit, and may correspond to those firms' definition of "fee.")

Project. The activities or tasks EPA identifies in the grant agreement.

Project Costs. All costs the recipient incurs in carrying out the project. EPA considers all allowable project costs to include the Federal share.

Project Period. The length of time EPA specifies in the grant agreement for completion of all project work. It may be composed of more than one budget period.

Real Property. Land, including land improvements, and structures and appurtenances, excluding movable machinery and equipment.

Recipient. Any group of individuals that has been awarded and has accepted a technical assistance grant.

Recipient's Project Manager. The person legally authorized to obligate the organization to the terms and conditions of EPA's regulations and the grant requirements, and designated by the recipient to serve as its principal contact with the lead agency.

Remedial Response. A long-term action at an NPL site that stops or substantially reduces a release or threatened release of hazardous substances that is serious, but that does not pose an immediate threat to human health and/or the environment.

Removal Action. An immediate action taken over the short-term to address a release or threatened release of hazardous substances.

Response Action. A CERCLA-authorized action at a Superfund site involving either a short-term removal action or a long-term remedial response.

Revision. A change to the project nature or scope of work which results in a funding change (increase or decrease) by formal amendment of the grant agreement.

Stop Work Order. Written EPA notification advising a recipient to immediately stop work on activities described in the order and to take all reasonable steps to minimize costs incurred until the problem that caused the order is resolved.

Subagreement. A written agreement between a technical assistance grant recipient and another party (a contractor other than another public agency) for services, supplies, or construction necessary to complete the project. Subagreements include contracts and subcontracts for personal and professional services, agreements with consultants, and purchase orders.

Supplies. All property, including equipment, materials, printing, insurances, and leases of real property, but excluding land or a permanent interest in land.

Suspension. An action taken by the Director, Grants Administration Division, under 40 CFR Section 32.300 to temporarily disqualify an individual, organization or unit of government from receiving any EPA assistance or subagreement.

TAG Project Officer. The EPA official designated in the grant agreement as EPA's program contact with the recipient.

Termination. The cancellation of a grant agreement, in whole or in part, before the scheduled project completion date. The recipient is entitled to be paid the EPA share of allowable costs incurred up to the date of termination and of allowable costs related to non-cancellable commitments made prior to termination.

Unexpended Federal Funds. Federal funds obligated but not yet disbursed. Represents the difference between the amount of EPA funds awarded to the recipient of a grant agreement and the amount EPA has paid that recipient.

Unobligated Federal Funds. Federal funds that the recipient has not spent; the difference between the amount of EPA funds awarded to the recipient of a grant agreement and the EPA share of the project obligations that the recipient has incurred under that agreement.

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